

OVERVIEW of the Daf

1) Mourning and eulogizing (cont.)

The Gemara concludes its discussion of mourning.

2) Destructive acts

R' Avahu presents a Baraisa which rules that all who act destructively are exempt except for one who wounds or burns something.

R' Yochanan asserted that the Baraisa is not authoritative.

The Gemara questions the Baraisa from the Mishnah which rules, without exception, that one who acts destructively is exempt.

The Gemara explains that the Mishnah follows the view of R' Yehudah, whereas the Baraisa follows the view of R' Shimon. The reasoning for both their opinions is presented.

3) Double the width of a "sit"

Two different ways of measuring a "double-sit" are presented.

4) MISHNAH: Three opinions are recorded regarding the point at which an animal is considered trapped.

5) Trapping undomesticated animals and birds

A contradiction is noted between a Mishnah and a Baraisa concerning liability for trapping undomesticated animals and birds from enclosures.

The contradiction regarding undomesticated animals is resolved by identifying the Baraisa as being consistent with R' Yehudah's opinion from our Mishnah, and the Mishnah being consistent with the opinion of Rabanan.

The contradiction regarding birds is resolved by distinguishing between roofed enclosures and non-roofed enclosures. This leads the Gemara to resolve the contradiction regarding undomesticated animals by distinguishing between large and small enclosures.

Three different ways to distinguish between large and small enclosures are presented.

R' Yosef in the name of R' Yehudah in the name of Shmuel rules like R' Shimon ben Gamliel's opinion in the Mishnah.

6) Details regarding trapping

From a number of Baraisos it emerges that one is liable for trapping a blind or sleeping animal because they will flee. On the other hand, one is exempt from trapping lame, old, and sick animals because they can not run away. The ruling regarding sick animals, however, is limited to animals with a fever, but if they are sick from fatigue one is exempt.

A Baraisa notes a dispute regarding the circumstances necessary for liability for trapping grasshoppers.

(Continued on page 2)

Today's Daf Digest is dedicated
By Izzy Krakowski and Moshe Nitekman

With **חומש** on **רמב"ן** on completing the **ה"קבה** to **שבת והודאה** in our night **סדר**. May we all be **זוכה** to soon resume our learning together in the **בית מדרש**.

Gemara GEM

Free as a Bird

הצד ציפור למגדל

Rashi explains that the reason a bird is not considered trapped in a house is because it can escape through the windows. Ran and Ritva also mention that a bird can escape a house through the openings in the walls or the roof. Rashash questions this approach, because the Gemara explains that we are talking about a type of bird which is used to living in the wild, and this bird has the knack of being able to escape once it has even a small amount of room in which to maneuver. This does not seem to be a function of the house having windows, but rather due to the house being bigger than a tower.

Sfas Emes also points out that according to Rashi, a person would be liable for confining a bird into a house if the windows were locked and secured. Yet the Gemara only makes a distinction between a house and a tower. This seems to suggest that a house is never a place where trapping would be successful. Sfas Emes answers that perhaps Rashi's comment can be understood within the words of the Gemara. While it is true that a bird can be confined within a house if the windows are locked, however, the person pursuing the bird would have to run around the house to make sure that none of the windows are opened. This is tedious, and difficult to maintain. Therefore, it becomes impractical for anyone to trap a bird inside a house. Even if someone would do so, and he would attempt to ensure that the windows were closed, this would be **שלא כדרכו**, an unusual way of catching a bird, and he would be exempt.

Taz (316:#1) writes that when Rashi says that the rule of trapping does not apply to a house due to its windows, this is true only according to R' Yehuda in the Mishnah. However, according to Rabban Shimon ben Gamliel, who evaluates trapping as a function of how easily it is to snatch the animal, a bird can only be considered trapped in a tower. In a house it is never trapped, because it can always find room to escape, whether the windows are secured or not. ■

REVIEW and Remember

1. What is R' Shimon's source that one who wounds or burns is liable even though the acts are destructive
2. What is R' Shimon ben Gamliel's guideline for determining liability for trapping?
3. What was Abaye's objection to R' Yosef's ruling?
4. Explain the parable used by the Mishnah to explain why the second person who sits in the doorway is not liable for trapping?

HALACHAH Highlight

The Various Modes of Confinement¹

הצד צבי סומא וישן וכו'

An animal does not necessarily have to be in a cage or surrounded by walls to be considered "confined". Any circumstance that prevents an animal from moving or escaping renders that animal Halachically confined.

A) Weak, ill animals

An animal that is unable to avoid capture because it is infirm and cannot escape is not subject to Tzod M'deoraissa, because it is considered previously confined by its inability to move. Similarly, a very young animal that cannot flee because it is not developed enough to move swiftly, or lacks a danger instinct is not subject to the Melocho M'deoraissa of Tzod (according to most Poskim) because, for all practical purposes, it is considered "trapped" even before being grabbed.

However, trapping these animals is Rabbinically restricted because the act of entrapment resembles Tzod.

Example: One who finds a sick rabbit or baby bird lying on the ground may not pick it up and bring it indoors or elsewhere to care for it because the act of grasping and holding it is Tzod M'dera-banon. According to some Poskim, trapping a sick animal is Tzod M'deoraissa. Note: There is also an additional prohibition on handling the animal, because all animals are Muktzah.

Because (according to many Poskim), an animal that is unable to move is considered "trapped" even before capture, it follows that one who chases a healthy animal until it becomes exhausted and cannot move, is violating the Melocho of Tzod even if he never actually grabs the animal.

B) Very slow-moving animals

Animals and insects that are naturally slow-moving and are therefore unable to move quickly enough to avoid easy capture are regarded as naturally confined. Because they are in a continuous state of Halachic confinement, trapping them is permitted.

(Insight...continued from page 1)

7) MISHNAH: The Mishnah discusses liability for trapping a deer by closing the door to the house.

8) R' Yirmiyah in the name of Shmuel rules: Liability for trapping a lion occurs when it is put into its cage.

9) MISHNAH: The Mishnah discusses liability for trapping a deer by sitting in the doorway. ■

Examples: Turtles, tortoises, snails, earthworms, and caterpillars

Note: All animals and insects are Muktzah and may not be handled. Trapping is only permitted if they are not handled in the process (e.g. covering them with a container).

B-1) Trapping ants

Also included in this category (according to some Poskim) are small red ants or similar insects that are small and cannot move quickly enough to avoid being easily captured once they are seen. The fact that the ant can crawl into a crevice and hide does not classify the creature as "unconfined" for the purpose of Tzod, because the ant itself is unable to move quickly to get to a crevice if it is far away.

However, it would appear that one must draw a distinction between small red ants and the larger black (carpenter) ants that are capable of moving much more quickly and require more effort to trap. Similarly, one must not trap spiders, harvestmen ("Daddy-long-legs") and the like because they are capable of moving quite quickly when disturbed.

B-2) Trapping flies, roaches, etc.

Most flying insects, even species that are not very swift, are too elusive to be captured easily and may therefore not be trapped on Shabbos. This includes mosquitoes, moths, bees, hornets, butterflies, fireflies, and crane flies (large mosquito-like insects).

Of course, insects that move very quickly and can easily escape entrapment, such as roaches, silverfish and house flies, are certainly subject to Tzod and are forbidden to trap. ■

1 The 39 Melachos, by Rabbi Dovid Ribiat, pages 862-863. Used with permission of the author

Distinctive INSIGHT

Understanding Trapping

אין צדין דגים מן הביבין ביום טוב

Normally, we are allowed to do melacha on Yom Tov for the purpose of preparing food. Yet here the Mishnah (from Beitza 23b) rules that we may not catch fish from a small enclosure on Yom Tov. Rashi (ibid.) explains that the reason this general authorization to do melacha for food does not apply here is because this could be

done just as easily on Erev Yom Tov. Therefore, the dispensation to perform the melacha of catching the fish on Yom Tov itself is unnecessary and disallowed.

Tosafos (ibid. אין צדין דגים מן הביבין) argues against Rashi, and he points out that the only time we find this difference and we prohibit an activity to be done on Yom Tov if it could have been done before Yom Tov, is regarding מכשירי נפש—items and actions needed in the preparatory level of cooking food (i.e. sharpening a knife). However, the melachos themselves are either permitted for

food purposes or they are prohibited.

Therefore, Tosafos explains that the prohibition of catching fish from this enclosure on Yom Tov may be only rabbinic. Or else, Tosafos suggests, it could be that it is not allowed on a Torah basis. Even in the preparation of food, the Torah only allows melachos in the sequence of baking beginning with kneading and further, including the baking. Trapping, however, was not included in the dispensation-for-food category. ■