

OVERVIEW of the Daf

1) Signs of kosher birds

The Mishnah's assertion that signs of kosher birds were not stated is challenged.

Abaye explains that the Mishnah's intent is that the Torah did not teach these signs.

R' Chiya cites a Beraisa that teaches that a bird that has one characteristic of a kosher bird may be eaten since it is not similar to the neshet.

This teaching is unsuccessfully challenged numerous times.

The Gemara further analyzes the important role the neshet bird plays in understanding which birds are kosher and which are non-kosher. ■

REVIEW and Remember

1. What are the Biblical signs of a kosher bird?

2. Which bird has all four kosher signs?

3. Why does the Torah mention that peres and ozniyah are non-kosher birds?

4. Why does the Torah mention that the turtledove is kosher?

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 as a zechus
 for a refuah sheleimah for*

**אברהם גרשון בן ציפי
 שלמה ברוך בן שיינדל ברכה
 דינה חיה שרה בת שיינע מירה**

*Today's Daf Digest is dedicated
 in loving memory of the first yahrzeit of our brother
 Mr. Marvin Brickman - ז"ל - משה דוב בן שמואל ז"ל
 by Mr. and Mrs. Alan Gerber*

Distinctive INSIGHT

The physical and behavioral aspects of kosher birds

גמירי עשרים וארבעה עופות טמאים הוו וארבעה סימנים, תלתא הדרי בכלהו עשרים מהם שלשה שלשה. ותרי בעורב, חד בפרס וחד בעזניה

In the parasha of kosher and non-kosher birds, the Torah lists twenty-four specific birds which may not be eaten. We also know that there are four specific signs which are necessary for a bird to be kosher. The Gemara states we have a tradition from our sages that among these twenty-four birds, twenty of them possess three out of these four signs. The *oreiv* has two of the signs. The *peres* and *ozniyah* each have one, but the one each has is not the same as the other. A *neshet* has none of the four signs necessary to be kosher. The Gemara concludes that the lesson we learn from *neshet* is that only when a bird is lacking any sign of being kosher is it non-kosher, as we find regarding the *neshet*. If a bird has at least one of the four signs, it is kosher, as long as it is not one of the twenty-four specific birds listed in the Torah which are prohibited to eat.

The Rishonim disagree regarding the description of these non-kosher birds which has been handed down to us by our sages. Rashi and Rabeinu Tam both say that twenty out of the twenty-four prohibited birds have three kosher signs, but they do not agree about the identity of what these three signs are.

Rashi says that these signs are all physical aspects of the bird's body. They all have an extra toe in the back of their legs, they have a crop, and their gizzard is able to be peeled. The non-kosher feature of each of these birds is behavioral, and that is they claw and eat. Accordingly, any bird that shares these three physical kosher characteristics is only kosher if it can be ascertained that it does not claw and eat, because otherwise we would have to suspect that it is one of the twenty-four prohibited birds listed in the Torah.

Rabeinu Tam holds that the three signs to which the Gemara refers include the behavioral sign that they do not claw and eat, beside two other physical properties of being kosher. Therefore, if a bird is found which has three physical properties of being kosher it may be eaten, because it is certainly not one of the twenty-four birds listed in the Torah as being non-kosher.

Rosh (#58), in the name of Rabeinu Chananel writes that the sign which the *peres* or *ozniyah* has in addition to the other non-kosher birds is that its gizzard can be peeled. This means that Rosh understands that the three kosher signs of these birds are an extra finger in back of the leg, a crop, and that they do not claw and eat. ■

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 Moshe Yechezkel ben Yehoshua, ז"ל
 by his children*

Dr. and Mrs. Aaron Friedman

HALACHA Highlight

Birds that dwell together

לא נאמר פירושן מדברי תורה אלא מדברי סופרים

These signs are not derived from the Torah they were generated by the rabbis

The Gemara below (65a) cites a Beraisa that teaches that a bird that dwells with non-kosher birds is not kosher and a bird that dwells with kosher birds is kosher. The first rule means that if a species of birds whose status is unknown dwells together with non-kosher birds it is presumed that the unknown species is also non-kosher. Regarding the second principle there is a dispute regarding its meaning. Teshuvos Minchas Yitzchok¹ cites Maharam Shik² who contends that since this principle is not cited by Rambam or Shulchan Aruch it is evident that dwelling with kosher birds does not definitively establish that the unknown bird is kosher. Divrei Chaim³ rejects this position and writes that when an unknown species dwells with kosher birds they are presumed kosher.

Minchas Yitzchok writes that he agrees with Divrei Chaim's contention that the Gemara cannot mean that an unknown species of birds that dwells with kosher birds is only possibly kosher and consequently must be treated as non-kosher and offers the following proof. If a species of bird that does not have a tradition dwells with a species that has a tradition we would have to conclude that even the bird that has a tradition should be considered non-kosher. The reason is that it is now a species of bird that dwells with a non-kosher bird. This would be similar to the zarzir and white senunis that were eaten in some towns, based on a mesorah according to Ba'al Hameor and nevertheless, according to R' Eliezer the residents of those towns will be punished since these species of birds dwelled with non-kosher birds and that should have been cause for them to have been more cautious. The only resolution that Minchas Yitzchok offers in defense of Maharam Shik is that he disagrees with Ba'al Hameor that a tradition can be overturned and agrees with Ran that a tradition is reliable even in a case where a non-kosher species dwells with a kosher species. ■

¹שו"ת מנחת יצחק ח"ה סי' ל"א אות כ"ה וכו'.

²שו"ת מהר"ם שיק יו"ד סי' צ"ט.

³שו"ת דברי חיים יו"ד ח"ב סי' מ"ח. ■

STORIES off the Daf

Establishing the Mesorah

”אין דורסין...”

A certain group of people began to study the pedigree of today's chicken from a halachic angle. Shockingly, they concluded that it is forbidden to eat chicken or eggs found in Israel today. “According to zoologists, these chickens come from a species for which there is no mesorah. Although they have all the simanim, nevertheless, the Mechaber and Rema write that we may not rely merely on simanim nowadays. Both rule that one must have a mesorah for a bird to be considered kosher. How can we have had a mesorah if these birds did not even exist during the times of chazal?”

Yet when they wrote to Rav Stern-

buch, shlit”a, he forcefully rejected both their approach and their reasoning. “The very concept that the entire Jewish nation has been eating treif, God forbid, is forbidden to entertain. How can you place a blemish in the holy nation and the gedolim? Also zoologists claim that the prevalent species of chicken stems from a bird that was extant and eaten a thousand years ago. So you claim to know better than the Rishonim as well!

“As far as your claims go, I believe they are completely empty. Firstly, the Shach writes that eating from mesorah only is a chumrah. Although that is the halachah, it is only relevant to a type of bird we have never seen before. But a slightly different variety of the same species is certainly not included in this chumrah. As the Netziv writes regarding eating turkey, it is not our task to search out the mesorah for such a bird. This is especially true re-

garding chickens in our times since we don't see any essential differences between the chickens we have now and those of earlier generations. Secondly, the Responsa Sharei Tzion states that when we have raised a species of bird for decades and we see that they never rend their prey there is no need for mesorah.”

Rav Sternbuch concluded with a warning. “However, we must be vigilant regarding innovations geneticists wish to make. For example I heard of a plan to inject chickens with mouse genes to strengthen them. Although this plan was rejected, at some point this type of thing is likely to become a serious problem. It is our task to be vigilant and ensure that the chickens we eat are also genetically kosher!”¹ ■

¹שו"ת תשובות והנהגות, ח"ה, ס' רמ"ד ■