

OVERVIEW of the Daf

1) Consecrated birds (cont.)

The Gemara finishes clarifying Ravina's ruling concerning a kosher bird that killed a person.

The Gemara searches for the circumstances in which a consecrated bird is exempt from shiluach hakein.

Rav and Shmuel offer different explanations of the Mishnah.

The reason they reject one another's opinion is explained.

An exchange between R' Yochanan and Reish Lakish is recorded that supports Shmuel's reading of the Mishnah.

It is noted that R' Yochanan and Reish Lakish seem to contradict positions that they have expressed elsewhere.

The contradictions are resolved.

Reish Lakish's position is unsuccessfully challenged.

R' Hamnuna asserts that all opinions would agree that when it comes to erech vows even if someone said עלי he is not liable.

Rava successfully challenges this assertion and consequently revises R' Hamnuna's statement.

2) "Prepared" birds

A Beraisa provides the source for the exemption of "prepared" birds from the mitzvah of shiluach hakein.

The necessity for the Beraisa's exposition is challenged and the exposition is modified.

3) Paths

Rav ruled that there is an obligation to perform shiluach hakein if one finds a nest in the sea since it is called a "path."

This ruling is unsuccessfully challenged.

4) Papunai

The people of Papunai asked whether there is a mitzvah of shiluach hakein if one finds a nest on a person's head and R' Masna answered that there is indeed an obligation.

They also asked for allusions for different people in the Torah and R' Masna found a phrase for each one of them.

5) The correct reading of the Mishnah

R' Chiya and R' Shimon debate whether the correct reading of the Mishnah is הדרסיאות or הדרסיאות.

The rationale behind each version is explained.

An incident related to Herod's doves is recorded.

6) Non-kosher birds

R' Yitzchok cites the source that the mitzvah of shiluach hekein does not apply to non-kosher birds.

R' Yitzchok's assertion that the term צפור is not used in reference to non-kosher birds is unsuccessfully challenged nu-

Distinctive INSIGHT

Is one required to pursue finding a nest, or does it apply only when one comes across a nest?

יכול יחזור בהרים וגבעות כדי שימצא קן ת"ל כי יקרא במאורע לפניך

The Beraisa teaches that there is no requirement to search for a nest in order to fulfill the mitzvah of sending away the mother bird from its nest. This mitzvah is only incumbent upon a person if he happens to come across a nest.

Is there an obligation to pursue other mitzvos, or are we expected to fulfill mitzvos only when they come our way? Chidushei R' Yehuda b. R' Binyamin HaRofeh notes that this Beraisa begins with the assumption that one should have to trek through hills and valleys in order to fulfill this mitzvah. It is only a special phrase in the verse ("כי יקרא") that limits our obligation specifically in this case and teaches that this mitzvah only applies when the mitzvah comes our way. We see, therefore, that the general approach to mitzvos is that one must assert himself and find opportunities to fulfill them.

Maharsham (1:209) infers the opposite conclusion from this Beraisa. The Beraisa opens with its suggestion, "Should one search through the hills and valleys to find a nest?" Rashi explains, "The Beraisa notes that the verse here states, 'שלח תשלח— you shall certainly send away the mother.' This double expression suggests that one must pursue this mitzvah until it comes into his hands." Maharsham notes that without a double expression, there was no expectation to pursue this mitzvah, and this seems to be the impression of the Beraisa regarding all mitzvos.

Chidushei Mahar"i Shapiro arrives at this conclusion from the Gemara in Sukka (27a) where we see that a person need not seek an opportunity to obligate himself to eat in a sukka except for the first night of the holiday. Rosh (Kesuvos 1:#12) writes that a person is not required to find an opportunity to shecht an animal and eat meat, even according to the view of Rambam that shechting an animal is a positive mitzvah. Similarly, a person is not obligated to wear a four-cornered garment in order to obligate himself in the mitzvah of tzitzis. From all these references we see that a person is not obligated to pursue mitzvos, but that one must fulfill them when he comes across the opportunity to do so.

However, Maharsham presents a different approach to explain our Rashi. In the case of a bird's nest, even if one were to hike through the mountains and valleys, he still might not find a nest. The double expression (שלח תשלח) is needed to suggest that this pursuit might be needed even though such an effort might be futile. However, any other pursuit of a mitzvah which will be successful might be expected, without a special verse indicating the need to do so.

Based upon a Midrash (Vayikra Rabba 9), Maharsham concludes that one is not obligated to pursue mitzvos, and they need be fulfilled only when they became available. ■

HALACHA Highlight

Pursuing the mitzvah of shiluach hakein

יכול יחזור בהרים וגבעות כדי שימצא קן

I may have thought that one should search in the mountains and hills to find a nest

The Gemara teaches that the mitzvah of shiluach hakein is not obligatory, rather when the mitzvah presents itself it should be fulfilled. This principle is derived from the pasuk that states (Devarim 22:6): Should a bird's nest happen to be before you. Chazal infer from this that there is no obligation to search in the mountains and hills in order to find a nest to send away a mother bird. Birkei Yosef¹ writes that the writings of Arizal indicate that one is obligated to put forward the effort to fulfill this mitzvah. Seemingly this teaching represents an opinion that is diametrically opposite to what is taught in our Gemara. Teshuvah Torah Lishmah² also references this teaching of Arizal and takes note of the fact that it is the opposite of what is taught in our Gemara. Aruch HaShulchan³ suggests that Arizal agrees with the teaching in our Gemara that there is no obligation to pursue the mitzvah of shiluach hakein and his intent is that the mitzvah is so valuable that it is worth it for a person to voluntarily pursue this mitzvah.

Rav Moshe Sternbuch⁴ suggested that Arizal was discussing the mitzvah from a kabbalistic perspective. Those who are capable of having the correct intent while fulfilling this mitzvah hasten the final redemption and that is why Arizal yearned to fulfill this mitzvah. The rest of us, however, who have caused

REVIEW and Remember

1. Is it possible to escape hekdesch ?

2. What is the point of dispute between R' Yochanan and Reish Lakish ?

3. Does the mitzvah of shiluach hekein apply if one finds a nest in the sky ?

4. The term צפור is exclusive for what category of birds ?

the Divine Presence to be banished and violated the prohibition of sending away the "mother" (See Isaiah 50:1) have not yet reached the point where we are prepared to rectify this sin and thus follow the teaching of the Gemara that there is no obligation to pursue this mitzvah. Alternatively, he suggests that the kabbalistic teaching to pursue this mitzvah follows the opinion of R' Shimon who infers halachos from the reasoning behind a mitzvah (דורש טעמא דקרא) and accordingly one is obligated to pursue this mitzvah. The Gemara, however, rejects R' Shimon's position and expounds the verse as recorded in our Gemara that there is no obligation to pursue this mitzvah. ■

¹ ברכי יוסף יו"ד סי' רצ"ב אות ח'.

² שו"ת תורה לשמה סי' רע"ז.

³ ערוה"ש יו"ד סי' רצ"ב סעי' א' במוסגר.

⁴ שו"ת תשובות והנהגות ח"ג סי' ש"ט. ■

STORIES off the Daf

Natural Philosophy

"ישב קן בראשו של אדם..."

A Karaite once debated a great sage who was also learned in non-Jewish literature. The Karaite chose a strange sounding statement from today's daf to demonstrate what he thought was the obviously ridiculous nature of Talmudic discourse. "In Chullin 139 the Talmud wonders about the halachah of a bird nesting on a human's head. Have you ever heard of anything more ridiculous in your life? What human would ever allow a bird to

nest on his head?"

The chacham did not hesitate for a moment. "In earlier works in Greek we find that there were monks who worked hard to nullify their material selves. They were willing to do any self-mortification to attain this goal. One of the ways they worked to completely divest themselves from their physical senses was to stand for long periods without any motion whatever. They would choose a deserted place, like a desert or field, thinking as deeply as they could, while carefully standing absolutely inert.

"These works record that the monks were so still that birds thought they were statues and nested on their heads. Of course this is a very specialized kind of

physical torture, but these monks accepted this on themselves to help them come to this state."

After showing the Karaite this in the Greek work, the chacham concluded, "Since there were such monks in the times of the sages of the Talmud as well, is it any wonder that they discuss the halachic ramifications of one who finds a bird nesting on someone's head?"

After bringing the above story, the Divrei Torah of Munkacz, zt"l, added, "If this is true, it explains how the Rambam—a great scientist and natural philosopher—codified this halachah without even wondering how it could be!"¹ ■

¹ דברי תורה, ח"ו, אות ני"ג ■