



OVERVIEW of the Daf

1) Wings touching the chicks (cont.)

The Gemara rejects the proof to the ruling presented by R' Yehudah in the name of Rav regarding a bird that is sitting on two branches above the nest.

One of the rabbis challenged the Mishnah's rulings regarding a nest with a single chick or egg or fledgling chicks or infertile eggs.

Rava shows the rabbi why he is incorrect.

2) MISHNAH: The Mishnah teaches that if the mother bird returns before taking the young one is obligated to send her away again. Additionally, if one wants the mother rather than the young there is an obligation to send away the mother first. If the young were removed and then replaced in the nest one is exempt from sending away the mother again.

3) Sending away the mother numerous times

The Mishnah's ruling that one must send away the mother numerous times is unsuccessfully challenged.

The Gemara questions the need for an exposition that one must send away the mother even if he needs the mother for a mitzvah.

A need for this exposition is suggested.

This suggestion is successfully challenged. Mar bar R' Ashi suggests another reason why an exposition is necessary.

This explanation is unsuccessfully challenged.

4) MISHNAH: R' Yehudah and Chachamim debate the consequence of taking the mother while she is still on her young.

5) Clarifying R' Yehudah's position

R' Abba bar Mamal inquires which of two explanations for R' Yehudah's ruling (that one who takes the mother while she is still on her young receives lashes, but does not have to let the mother go after having already taken her) is correct.

On the third attempt the Gemara answers that according to R' Yehudah the term שלח refers to one's initial behavior and not how to rectify the transgression.

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Distinctive INSIGHT

Sending the bird "by her legs or by her wings"

במה משלחה רב הונא אמר ברגליה רב יהודה אמר באגפיה

The Gemara cites a disagreement regarding the method of sending away the mother bird. Rav Huna says that it is adequate to send the mother bird away by her feet, while Rav Yehuda says that she should be sent by her wings.

According to the first explanation of Rashi, the dispute among the Amoraim is how the bird should be held as she is sent away. However, Rashi questions this approach, because the verses brought to support each view describe animals' movements, and not the manner by which people handle them. Rashi also notes that the Gemara brings a story of R' Yehuda which illustrates a different approach to this discussion. The story was where someone cut off the feathers of a bird and sent it away. The bird obviously could not fly, and the person recaptured it. Rav Yehuda punished the person for not having fulfilled the mitzvah properly. We see that the mitzvah is not evaluated in terms of how the person handled the bird, but in terms of whether she was able to fly.

Therefore, Rashi explains that the views of the Amoraim are describing how the animal is to depart when she is sent. Rav Huna says that the mitzvah is done if the bird can only walk away, even if she cannot fly. At that point the mitzvah is fulfilled, and the person can even chase after her and recapture her. Rav Yehuda contends that the mother bird must be able to fly away. Therefore, if her feathers were cut or removed, the mitzvah cannot be fulfilled. This explains why he punished the one who cut off the feathers before sending her.

Lechem Mishnah (ibid.) explains that the story can be explained even according to the first explanation of Rashi. Once the feathers were cut, the only way it was possible to handle the bird was by holding her feet, and this was not a proper fulfillment of the mitzvah. This is why R' Yehuda punished the one who failed to perform the mitzvah and then recaptured the bird.

Rambam (Hilchos Shechita 13:5) rules that the mother bird should be held by her wing and sent to fly away. Ra"n explains that Rambam explains the dispute according to the first explanation of Rashi, and that he rules according to the view of R' Yehuda. The Beur Gr"a (Y.D. 292:#9) also explains Rambam in this manner, as he notes that Rambam says that the person

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REVIEW and Remember

1. What halachos are derived from the phrase שלח תשלח?
2. What is the point of dispute between R' Yehudah and Chachamim?
3. How far does the mother bird have to be sent away for the mitzvah to be fulfilled?
4. Why are doves in a dovecote only prohibited to other people because of theft on a Rabbinic level?

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HALACHAH Highlight

Is there a mitzvah to take the young?

אמר הריני נוטל את האם ומשלח את הבנים וכו'

One who declares, "I will take the mother and send away the young etc.

The Torah writes שלח תשלח את האם ואת הבנים תקח לך –Send away the mother bird and the young take for yourself. The Torah scholars of the city of Lublin debated the exact intent of this pasuk. One interpretation is that there is a mitzvah to take the young and if one does not take the young he did not fulfill the mitzvah. An alternative interpretation is that the mitzvah is to send away the mother and even if one does not take the young, the mitzvah is nevertheless fulfilled and when the Torah writes, "and the young take for yourself" it was merely expressing an option. In other words if you want to take the young after the mother was sent away it is permitted. The question was sent to Chacham Tzvi¹ and he answered that the uncertainty can be resolved from our Mishnah. The Mishnah teaches that if a person says that he wants to take the mother and he will send away the young he is nevertheless obligated to send away the mother. The Mishnah's wording indicates that even if one sends away the young the obligation to send away the mother remains in force. This implies that one who sends away the mother fulfills the mitzvah of shiluach hakein even though he sent away the young since the Mishnah obligates him to send away the mother even though the young were already sent away. It must be that when the Torah says "and the young take for yourself" it was expressing an optional activity similar to the Torah's statement that one should work for six days which is understood as an option rather than an obligation.

Beis Lechem Yehudah² cites Zohar that indicates that one is

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R' Idi suggests proof for this explanation from the Mishnah but it is rejected.

6) Sending away the mother

R' Yehudah teaches how far the mother must be sent away.

R' Huna and R' Yehudah dispute which limbs of the mother must remain intact and each Amora cites a source for his position.

A related incident is recounted.

Another incident involving shiluach hakein is recorded.

7) Doves

A Baraisa rules that doves from a dovecote or an attic are subject to the mitzvah of shiluach hakein and are subject to a Rabbinic prohibition of theft.

It is noted that this Baraisa seems to contradict R' Yosi bar Chanina's ruling that a person's courtyard can acquire property on his behalf. Rav resolves this question.

This resolution is unsuccessfully challenged.

Another resolution to the challenge to R' Yosi bar Chanina is offered.

This interpretation is unsuccessfully challenged.

A related incident is presented.

The Gemara wonders about the exact nature of R' Yehudah's inquiry. ■

obligated to take the young for himself. Although there is a general principle that halacha is not derived from Zohar, that principle is limited to where the Zohar disagrees with the Gemara. When they are not in conflict with one another it is acceptable to derive a halacha from a statement in Zohar. ■

¹שו"ת חכם צבי סי' פ"ג.

² בית לחם יהודה יו"ד סי' רצ"ב סעי' א'.

STORIES Off the Daf

Send Her Away—No Matter What

לדבר מצוה מנין ת"ל תשלח מכל מקום

The Toras HaNefesh learns an important message about when to temper one's avodah from a statement on today's daf. "When a person ascends in understanding, he should also develop greater empathy for the pain of others. This is even true regarding fulfilling a mitzvah. If one is overzealous in fulfilling mitzvos, he can sometimes insult another Jew undeservedly. Usually this kind of person has forgotten his friend's feelings and doesn't even realize that he has sinned. He might have insulted another Jew, or he might have treated his fellow with less than the honor that he de-

serves, or he might have forgotten to consider the ramifications of his actions on his friend's livelihood. His subconscious feeling is that it is better for a thousand people to endure pain or inconvenience as long as he fulfills the mitzvah that is his goal. Sadly, this person does mitzvos for his own sake, not for God's. One who does mitzvos for God acts with humility, without fanfare, and with great care to avoid harming his fellow Jew.

"We can learn this from the Gemara in Chullin 141. The Gemara learns from the word תשלח, in the verse: 'שלח תשלח' that if someone takes the chicks, he must send the mother bird even if he wishes to keep her to fulfill a mitzvah. For example, if one wishes to use the bird to purify a metzora, it is still forbidden to take her if he takes the eggs or chicks. From this we see that one

must never think that he has a right to insult or hurt another to do a mitzvah. In general this is certainly forbidden and is nothing less than a מצוה הבאה בעבירה. A real mitzvah is only when one fulfills the mitzvah without harming or hurting his fellow..."¹ ■

1. תורת הנפש, כי תצא ■

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should hold the bird in his hands, by the bird's wings. According to the second approach of Rashi, the discussion only dealt with the bird walking or flying away, but nothing to do with whether the person has to hold her or not. In fact, according to Rashi's second approach, the person may scream at or wave at the bird, and there is no need to handle her, as we find in Rambam. ■