

OVERVIEW of the Daf

1) The permissibility to trap a trapped creature

R' Abba in the name of R' Chiya bar Ashi in the name of Rav rules: If a bird becomes tangled in one's garment it is permissible to guard it until dark.

When challenged from the Mishnah that uses the term פטור the Gemara explains that in this context the term means not only exempt from liability but that in fact it is entirely permitted.

Shmuel cites the three times the word פטור means permitted instead of exempt.

הדרן עלך האורג

2) MISHNAH: The Mishnah discusses liability for trapping and bruising different varieties of animals.

3) Identifying the author of the Mishnah

Rav and Shmuel disagree whether the Mishnah is the opinion of R' Yochanan ben Nuri or, as Rav suggests, could also reflect the opinion of Rabanan.

Rav's assertion that R' Yochanan ben Nuri and Rabanan's disagreement regarding the hide of sheratzim does not apply to Shabbos is unsuccessfully challenged.

4) Killing vermin

R' Yirmiyah asserts that the Mishnah which implies that killing vermin on Shabbos is prohibited follows the opinion of R' Eliezer.

R' Yosef disagrees claiming that Rabanan only disagree with R' Eliezer regarding lice that do not reproduce but if one kills other creatures that do reproduce he would be liable even according to Rabanan. R' Yosef explains how both opinions came to their respective conclusions.

R' Yosef is unsuccessfully challenged.

5) Trapping animals

Rav explains that the Mishnah which distinguishes between trapping for a positive purpose or not follows the opinion of R' Shimon regarding a מלאכה שאינה צריכה לגופה.

Others place Rav's explanation into a different context.

6) Killing fish

Shmuel rules: If one removes a fish from water he is liable as soon as a sela-wide spot becomes dry.

R' Yosi bar Avin and R' Ashi qualify Shmuel's ruling.

Shmuel rules: One who removes an embryo from an animal is liable because he uprooted something from its place of growth. ■

REVIEW and Remember

- What are the three examples where the word פטור means permitted
- What is the dispute between R' Yochanan ben Nuri and Rabanan concerning sheratzim?

Gemara GEM

Trapping and Killing Fish

השולח דג מן הים – כיון שיבש בו כסלע חייב

The Sefer שבת אורחות (page 416) proposes a question about a case where a person would shoot an arrow at an animal and thereby kills it. He is certainly liable for נטילת נשמה for having taken the life of the animal. The question is, however, is would he also be responsible for having violated the prohibition of trapping? Do we say that, after all, the animal was running around freely, but now it is under his control, thus, by definition this would be a case of trapping, or do we say that צידה is only an issue when the animal is under one's control when it is still alive? What are the guidelines of this melacha?

HaRav Yosef Elyashiv, zt"l, is of the opinion that our Gemara shows that trapping does apply even when the animal is killed. The case discussed is where one grabs a fish and removes it from the water. Once a spot the size of a סלע coin dries out on the fish, the person is חייב for having killed the fish. Rashi and Tosafos, as well as Rambam (Hilchos Shabbos 11:1), explain that the fish was previously in a bucket or similar enclosure, where trapping has already been done. The fact that all these Rishonim learn that we are speaking where trapping is not an issue indicates that had it, in fact, been a problem, the person would have been liable for trapping in addition to having killed it. We see that trapping does, in fact, apply when hunting and killing an animal.

Yet, the sefer Daf al Daf suggests a clear distinction to be made. When a fish is caught, even from a river, it does not die immediately. There are a few moments it flaps and struggles, until it begins to dry out to the point of no return, as our Gemara explains. During these moments, one is liable for trapping, even before the fish dies. This, then, is why the Rishonim each explain that the case in our Gemara where only נטילת נשמה applies is where the fish has been confined before Shabbos. Also, when an animal is shot with an arrow, it also becomes confined and "trapped" for a few moments before it actually dies. Therefore, a person who shoots an animal in the process of catching it should be liable for both trapping as well as killing it. However, both by a fish and by an animal, if the animal would be killed instantly, perhaps the hunter would only be liable for killing the animal, and the labor of trapping would not apply. ■

HALACHAH Highlight

Killing Animals on Shabbos¹

דתניא רבי אליעזר אומר: ההורג כינה בשבת כהורג גמל בשבת

Unlike the melacha of tzod, in which there is a Halachic distinction between different species, the melacha of shochet applies to almost all living creatures of all species.

The Talmud states that killing even the tiniest insect is equivalent to killing a very large animal (e.g. an elephant).

Therefore, one may not spray insecticide at an insect, or walk on a swarm of ants or worms because in all such cases, a living creature is being exterminated.

A) Killing lice

There is however one exception—lice. Lice and nits may be killed on Shabbos because they are a lower form of animal life that do not reproduce in the same manner as other animal life. Lice therefore do not truly resemble the kinds of animals used in the Mishkan from which the melacha of shochait is derived. The Talmudic commentaries explain that lice develop and thrive only in unsanitary conditions and are unlike other higher forms of animal life. They are therefore entirely exempt from the melacha of shochet.

A-1) Treating head-lice on Shabbos

Where head-lice is a problem (e.g. school children) the lice and nits may be killed with *sprays or powder* applications. A thin liquid treatment may also be sprinkled lightly on the hair, thereby dampening the hair only slightly. Care should be taken not to soak the hair to the point where squeezing would be likely.

However, shampoos and combs *may not be used on Shabbos* because their use involves other melachos. For example, S'chitah (Dosh) is transgressed when squeezing shampoo and water from wet hair. Use of combs entails גוזז because hairs are inevitably pulled out during combing. In any case, a non-Jew may be asked to comb and shampoo the child's hair.

B) Killing dangerous animals and insects

As explained earlier, killing almost any creature is shochet and is forbidden on Shabbos. Even an annoying pest (e.g. troublesome flies) or even a biting insect (e.g. mosquitoes or fleas) may not be killed on Shabbos in ordinary circumstances. However, if the animal or insect is dangerous, eliminating the threat may be permitted, even if this

means killing the creature.

B-1) When life threatening

Any dangerous animal or insect that poses a threat to human life may (and should) certainly be exterminated by instructing a non-Jew to do so.

If necessary, one may even kill (or certainly trap) such animals himself on Shabbos. The creature may be killed even if it is not presently pursuing any person, because its mere presence in the vicinity is a threat.

Hornets in the vicinity of an infant (or even an adult who has dangerous allergic reaction to a sting) may be trapped if the hornets cannot be driven out of the room (e.g. by opening window and spraying insect repellent at them, or insecticide in their general direction, but not directly on them). Similarly, mosquitoes or any other insects may be trapped where they pose a risk of malaria or other diseases.

These dangerous creatures may be killed outright if necessary. However, where possible, they should be killed in an inconspicuous manner (Dorsa L'fi Tumo).

B-2) When likely to cause severe pain (not life threatening)

Animals or insects that do not pose a threat to life, but can cause significant physical pain and discomfort with their bite or sting, may not be killed outright if they are not presently pursuing anyone. However, they may be trapped (e.g. by covering them with a cup or bowl) to keep them out of the way. If trapping is not feasible, they may even be killed. However, this may only be done in an inconspicuous manner.

C) A swarm of insects in the house

One may not spray insecticide upon a swarm of ants or other insects in the house on Shabbos or Yom Tov, nor may one deliberately tread upon them even inconspicuously (i.e. Dorso L'fi Tumo). This is because ants (even in swarms, with the possible exception of aggressive red ants found in Texas and Florida) are neither dangerous nor are their bites very painful. Therefore, there is no basis to permit killing them on Shabbos.

It is questionable whether sprinkling or spraying poison around the perimeter of the area (but not directly on the insects) to discourage them from spreading is permissible. However, if the insects are in the kitchen or other areas of the house where their presence is particularly revolting, spraying in this fashion is permitted. In any case, it is permitted to ask a non-Jew to do the spraying. ■

1 The 39 Melachos, by Rabbi Dovid Ribiat, pages 888-892. Used with permission of the author.

Distinctive INSIGHT

The Scorpion and the Snake

ועל עקרב שלא תישך

In demonstrating the three cases in Hilchos Shabbos where one is not only פטור, but the action is completely מותר, we find the case of trapping a snake in order that it not bite someone. To prove that this is completely allowed, we cite the Mishnah (121a), where the halacha is that one is allowed to place a bowl over a scorpion in order that it not bite anyone.

Rabbi Akiva Eiger points out that the Gemara (Berachos 33a) seems to say that a scorpion is much more dangerous than a snake. Therefore, it could be that we only allow this dispensation of trapping a scorpion due to its high degree of danger, but our Gemara no longer has a proof to illustrate its case that we may do so to trap a snake as well.

Hagahos HaBach (א) notes this question, and he suggests a way to understand the proof of the Gemara which demonstrates that we may trap a snake under a bowl. Tosafos (3a – בר מהני תלת) explains that the reason this act is allowed is not because trapping may be done in a case of danger, but rather because

the nature of this melacha is that it is a מלאכה שאינה צריכה לגופה. This is a classic case where the labor of trapping is not done in order to catch the animal, but rather because we want to remove the dangerous animal from our table or our house. Whenever a melacha is done for motives other than the objective it was performed in the Mishkan, we are lacking in מלאכת מחשבת, and in this case it is permitted. The proof is from the case of the scorpion. It is not a question of the degree of danger which the particular animal poses, but rather the lack of designed intent of the labor which causes this to be permitted. ■

