

דף יומי • חלין • דף ק"מ

Daf Yomi • The Full Daf • Elucidated Talmud • Navy & Gold Edition • with Rashi

THE SUGYA

We begin the daf by continuing our shakla v'tarya on Rabbi Yitzchak's rule that a plain "tzippor" in the Torah always refers to a kosher bird. The Gemara brings several proofs and challenges from pesukim, including the parsha of the metzora's purification where the Torah mentions "two living, kosher birds." We delve into the exact halachic derivations of these words, analyzing what they come to exclude, such as treifot, birds of an idolatrous city, or birds used for avodah zarah.

Toward the end of the daf, we return to the core halachos of Shiluach HaKan, the mitzva of sending away the mother bird. The Gemara begins analyzing the specific case where a non-kosher bird is sitting on the eggs of a kosher bird, and whether this setup obligates one in the mitzva.

All introductions, summaries, and contextual notes are the editor's commentary and are not part of the original text.

עמוד א' DAF 140A

EXPLANATION

”וּבַעֲנַפּוֹתַי יְדוּרִין צִפֹּרִי שָׁמַיָא” –

The Gemara rejects the proof from the pasuk in Daniel: “**And in its branches will dwell the birds of the heaven**”

EXPLANATION

”צִפֹּרִי שָׁמַיָא” אֵינְרוּ, ”צִפֹּרִי” סִתְּמָא לָא אֵינְרוּ.

there they **are** called “**birds of the heaven**,” but they **are not** called “**birds**” in an **unspecified**, plain manner. Therefore, Rabbi Yitzchak's rule that a plain “tzippor” is always kosher still stands.

QUESTION

תָּא שָׁמַע: ”כָּל צִפּוֹר טְהוֹרָה”, מִכָּל דְּאֵיכָא טְמֵאָה?

The Gemara suggests: **Come and hear** a proof from the Torah: The pasuk says, “**Every kosher bird** you may eat.” **By inference**, does this not mean **that there is a non-kosher** bird that is also called a “tzippor”? This would disprove Rabbi Yitzchak's rule!

ANSWER

לָא, מִכָּל דְּאֵיכָא אֲסוּרָה.

The Gemara answers: **No**, the inference is not that there is a non-kosher species called “tzippor”; rather, **by inference** we learn **that there is** a kosher bird that is **forbidden** to be eaten.

QUESTION

מַאי הִיא?

The Gemara asks: **What is it?** What kosher bird is forbidden to be eaten?

OBJECTION

אי טרפה – בהדיא כתיב!

If you say it is a **treifah**, that is **written explicitly** in another pasuk: "An unslaughtered carcass or a treifah he shall not eat!"

OBJECTION

ואי בשחוטה דמצורע – מסיפא דקרא נפקא, "וזה אשר לא תאכלו מהם" – לרבות שחוטת מצורע.

And if you say it refers to the **slaughtered bird of a metzora**, which is forbidden for benefit, that is **derived from the end of the pasuk**: "And this is what you shall not eat of them," which the Sages expounded to **include the slaughtered bird of a metzora**! Why would we need another pasuk?

ANSWER

לעולם בשחוטה דמצורע, ולעבור עליו בעשה ובלא תעשה.

The Gemara answers: **Actually**, it refers to the **slaughtered bird of a metzora**, and the extra pasuk is needed to **make one transgress on its account both a positive commandment and a negative commandment**.

QUESTION

ולקמה בטרפה, ולעבור עליו בעשה ולא תעשה?

The Gemara asks: **But** why not **establish it by a treifah**, and say the extra pasuk is to **make one transgress on its account both a positive commandment and a negative commandment**?

ANSWER

דבר הלמד מענינו, ובענינא דשחוטה כתיב.

The Gemara answers: We have a rule that **a matter is learned from its context**, and this pasuk is **written in the context of a slaughtered bird**, since the metzora's bird is slaughtered. A treifah, however, is not properly slaughtered, so it does not fit the context.

QUESTION

תא שמע: "שתי צפרים חיות", מאי "חיות"? לא שחיות בפיה?

The Gemara suggests: **Come and hear** another proof from the purification of a metzora: The pasuk says, "**two living birds**." **What is the meaning of "living"**? Is it not that they are "**living in your mouth**," meaning permitted for you to eat?

INFERENCE

מכלל דאיכא לא שחיות בפיה!

By inference, does this not mean **that there are** other birds called "tzipporim" that are not "**living in your mouth**," meaning they are non-kosher species? This would disprove Rabbi Yitzchak!

ANSWER

לא, מאי "חיות"? שחיין ראשי אברים שלהן.

The Gemara answers: **No**, **what is** the meaning of "**living**"? It means **that their extremities are living**, meaning they are not missing any limbs, which would disqualify them from the purification process.

QUESTION

תא שִׁמַּע מְסִיפָא: "טְהוֹרוֹת", מִכָּלֵל דְּאִיכָא טְמֵאוֹת?

The Gemara suggests: **Come and hear** a proof **from the end** of that same pasuk, which says: "kosher" birds. **By inference**, does this not mean **that there are non-kosher** birds called "tzipporim"?

ANSWER

לא, מִכָּלֵל דְּאִיכָא טְרֵפוֹת.

The Gemara answers: **No, by inference** we learn **that there are treifot** which are disqualified, even though they are of a kosher species.

OBJECTION

טְרֵפוֹת מִ"חַיּוֹת" נִפְקָא.

The Gemara objects: But the disqualification of **treifot** is already **derived from** the word "living"!

OBJECTION

הֲנִיחָא לְמֵאן דְּאָמַר טְרֵפָה חַיָּה, אֶלָּא לְמֵאן דְּאָמַר טְרֵפָה אֵינָה חַיָּה, מֵאִי אִיכָא לְמִימַר?

The Gemara explains: **This works out well according to the one who says** that a treifah can live, so we need "kosher" to exclude it. **But according to the one who says** that a treifah cannot live, **what is there to say?** It is already excluded by the word "living"!

OBJECTION

וְעוֹד, בֵּין לְמֵאן דְּאָמַר טְרֵפָה חַיָּה, בֵּין לְמֵאן דְּאָמַר אֵינָה חַיָּה, מִדִּתְנָא דְּבִי רַבִּי יִשְׁמַעְאֵל נִפְקָא.

And furthermore, whether according to the one who says that a treifah can live, or according to the one who says that it cannot live, the exclusion of a treifah is **derived from that which the school of Rabbi Yishmael taught!**

BRAISA

דִּתְנָא דְּבִי רַבִּי יִשְׁמַעְאֵל: נֶאֱמַר מְכַשִּׁיר וּמְכַפֵּר בְּפָנִים, וְנֶאֱמַר מְכַשִּׁיר וּמְכַפֵּר בַּחוּץ.

For the school of Rabbi Yishmael taught: We find a **permitting offering and an atoning offering brought inside** the Beis HaMikdash, and we find a **permitting offering and an atoning offering brought outside** the Beis HaMikdash.

BRAISA

מָה מְכַשִּׁיר וּמְכַפֵּר הָאִמּוֹר בְּפָנִים – עֲשֵׂה בּוֹ מְכַשִּׁיר כְּמַכְפֵּר, אַךְ מְכַשִּׁיר וּמְכַפֵּר הָאִמּוֹר בַּחוּץ – עֲשֵׂה בּוֹ מְכַשִּׁיר כְּמַכְפֵּר.

Just as with the **permitting and atoning offerings mentioned inside**, the Torah **made the permitting offering like the atoning offering** to require it to be unblemished, **so too**, with the **permitting and atoning offerings mentioned outside**, the Torah **made the permitting offering like the atoning offering**. Therefore, just as the scapegoat (the atoning offering outside) cannot be a treifah, so too the metzora's birds (the permitting offering outside) cannot be treifot. Why then do we need the word "kosher"?

ANSWER

אֶלָּא אָמַר רַב נְחֻמָּן בַּר יִצְחָק: לְמַעוּטֵי צְפוּרֵי עִיר הַנִּדְחָת.

Rather, Rav Nachman bar Yitzchak said: The word "kosher" comes to exclude the birds of an idolatrous city, which are forbidden for any benefit.

QUESTION

למאי? אי לשילוח – לא אמרה תורה שלח לתקלה, אלא לשחיטה.

The Gemara asks: **For what** part of the ritual are they excluded? If you say **for sending away**, that is obvious, because **the Torah did not say to send** a bird **to become a stumbling block** for others who might eat it! **Rather**, it must be **for slaughtering**.

STATEMENT

רבא אמר: למעוטי שלא לזנוג לה אחרת קודם שילוחיה.

Rava said: The word "kosher" comes to exclude a bird, so that one should not pair with it another bird of a forbidden type before sending it away.

QUESTION

למאי? אי לשחיטה – הא בעיא שילוח! אלא לשילוח.

The Gemara asks: **For what** part of the ritual is this second bird excluded? If you say **for slaughtering**, but it requires sending away! **Rather**, it must be **for sending away**.

STATEMENT

רב פפא אמר: לצפרים (שהחליפו) [שהחליפו] בצפרי עבודה זרה,

Rav Pappa said: The word "kosher" comes to exclude birds that were exchanged for birds of avodah zarah,

PROOF

דכתיב: "והיית חרם כמהו", כל מה שאתה מביאה הימנו כמהו.

as it is written: "And you shall be a banned thing like it," which teaches: Whatever you bring into existence from it is like it, and is forbidden for benefit.

QUESTION

למאי? אי לשילוח – לא אמרה תורה שלח לתקלה, אלא לשחיטה.

The Gemara asks: **For what** part of the ritual are they excluded? If you say **for sending away**, the Torah did not say to send a bird **to become a stumbling block**! **Rather**, it must be **for slaughtering**.

STATEMENT

רבינא אמר: הכא במאי עסקינן? בעוף שהרג את הנפש.

Ravina said: Here we are dealing with a bird that killed a person, which is disqualified.

QUESTION

היכי דמי? אי דגמר דינה – פר קטל הוא!

The Gemara asks: **What are the circumstances?** If its trial was finished, it is slated for death and must be stoned, so it is forbidden for benefit!

ANSWER

אָלָא קודם גַּמַּר דִּינָא, וְלִמָּא?

Rather, it must be before its trial was finished. And for what part of the ritual is it excluded?

ANSWER

אי לשילוח – בְּעֵי לְאַתּוּי לְבֵי דִינָא וְקִיּוּמֵי "וּבְעֶרְתָּ הָרַע מִקִּרְבֶּךָ" אָלָא לְשַׁחֲיטָה.

If you say for sending away, we need to bring it to Beis Din and fulfill the mitzva of "And you shall destroy the evil from your midst"! Rather, it must be for slaughtering.

STATEMENT

עוף טָמֵא רוֹבֵץ עַל בֵּיצֵי עוֹף טָהוֹר.

The Gemara returns to the laws of Shiluach HaKan: If a non-kosher bird is sitting on the eggs of a kosher bird, one is exempt from sending it away.

EXPLANATION

בְּשִׁלּוּחַ עוֹף טָמֵא רוֹבֵץ עַל בֵּיצֵי טָהוֹר – בְּעֵינֵן "צִפּוֹר" וְלִיכָא,

The Gemara analyzes this: Granted, if a non-kosher bird is sitting on the eggs of a kosher bird, we require a "tzippor" (which is kosher) and it is not present, since the mother bird is non-kosher.

QUESTION

אָלָא עוֹף טָהוֹר רוֹבֵץ עַל בֵּיצֵי עוֹף טָמֵא – הָא "צִפּוֹר" הוּא!

But if a kosher bird is sitting on the eggs of a non-kosher bird, behold, it is a "tzippor"! Why should one be exempt from sending it away?

ANSWER

כְּדָאָמַר רַב כְּהֵנָא: "תִּקַּח לָךְ" – וְלֹא לְכַלְבִּיָּהּ, הֵכָא נִמְי: "תִּקַּח לָךְ" – וְלֹא לְכַלְבִּיָּהּ.

The Gemara answers: It is as Rav Kahana said in another context: The Torah says, "you shall take for yourself" — and not for your dogs. Here too, since the non-kosher offspring are forbidden to be eaten, they are only fit for dogs, so we apply: "you shall take for yourself" — and not for your dogs.

QUESTION

וְהִיכָא אִיתְמַר דְּרַב כְּהֵנָא?

The Gemara asks: And where was this statement of Rav Kahana said?

STATEMENT

אָהָא דְתַנְיָא: אִם טְרֵפָה – חַיִּיב בְּשִׁילּוּחַ, אֶפְרוּחִים טְרֵפוֹת – פָּטוֹר מִשִּׁילּוּחַ.

It was said on that which is taught in a Braisa: If the mother bird is a treifah, one is obligated in sending her away. But if the chicks are treifot, one is exempt from sending the mother away.

QUESTION

מֵנָּה הֵנִי מִיְלֵי?

The Gemara asks: From where do we know these words?

ANSWER

אמר רב כהנא: דאמר קרא "תקח לך" – ולא לכלבך.

Rav Kahana said: As the pasuk says, "you shall take for yourself" — and not for your dogs. Since treifah chicks cannot be eaten, they are only fit for dogs.

QUESTION

ולקחיש אם טרפה לאפרוחים, מה אפרוחים טרפות – פטור משילוח, אף אם טרפה נמי – פטור מלשלח.

The Gemara asks: **But** why not compare a treifah mother to the chicks: Just as if the chicks are treifot, one is exempt from sending away, **so too**, if the mother is a treifah, one should also be exempt from sending her away? Why does the Braisa say one is obligated? The Gemara will go on to resolve this.

עמוד ב' DAF 140B

ANSWER

אם כן, "צפור" למעוטי עוף טמא למה לי?

If so, that we compare the mother to the fledglings, **why do I need** the word "bird" to exclude a non-kosher bird? We could simply derive it from the fact that one is exempt from the mitzvah in the case of non-kosher fledglings, since they are not fit for consumption!

QUESTION

והתנא: אם אפרוחין טרפה – חייב בשילוח!

The Gemara questions Rav Kahana's ruling: **But isn't it taught** in a braisa: With regard to a mother of fledglings that is a tereifah, one is still **obligated in sending away** the mother? This implies that even if the fledglings themselves are tereifos, the mitzvah applies!

ANSWER

אמר אביי: הכי קאמר – אפרוח שאמן טרפה חייב בשילוח.

Abaye said: This is what the braisa is saying: In the case of a fledgling whose mother is a tereifah, one is obligated in sending away the mother. The braisa is not referring to the fledglings being tereifos.

QUESTION

בעי רב הושעא: הושיט ידו לקן, ושחט מיעוט סימנים, מהו?

Rav Hoshaya raised a dilemma: If one stretched his hand into the nest and slaughtered a minority of the simanim (the windpipe and gullet) of the fledglings, **what is** the halacha regarding sending away the mother?

EXPLANATION

מי אמרינו: כיון דאילו שביק להו מטרפי, בעינו "לך ולא לכלבך",

Do we say: Since if he leaves them as they are, with only partially severed simanim, they will eventually be rendered tereifos, and we require that the fledglings be fit for "for yourself" and not for your dogs, therefore one is exempt?

EXPLANATION

או דלמא, כיון דכידו למגמר שחיטה, "תקח לה" קרינא ביה, וחיוב בשילוח?

Or perhaps, since it is in his power to complete the shechitah and make them kosher for eating, we read in it "take for yourself" and he is obligated in sending away the mother?

RESOLUTION

תיקו.

The Gemara concludes: The dilemma **shall stand** unresolved.

QUESTION

בעי רבי ירמיה: מטלית מהו שתחזי? כנפים מהו שתיחזו?

Rabbi Yirmeya raised a dilemma: If there is a **rag** between the mother and the eggs, **what is** the halacha? Does **it** interpose? If **feathers** detached from the wings lie between them, **what is** the halacha? Do **they** interpose?

QUESTION

ביצים מוזרות, מהו? שני סדרי ביצים זו על גב זו, מהו?

If there are **unfertilized eggs** separating between the mother and the kosher eggs, **what is** the halacha? If there are **two rows of eggs, one on top of the other**, **what is** the halacha? Does the upper row interpose?

QUESTION

זכר על גבי ביצים ונקבה על גבי זכר, מהו?

If a **male** bird is resting **on top of the eggs**, and a **female** bird is resting **on top of the male**, **what is** the halacha? Does the male interpose?

RESOLUTION

תיקו.

The Gemara concludes: The dilemmas **shall stand** unresolved.

QUESTION

בעי רבי זירא: יונה על ביצי תסיל, מהו? תסיל על ביצי יונה, מהו?

Rabbi Zeira raised a dilemma: If a **pigeon** is resting **on the eggs of a tasil** (a kosher bird resembling a pigeon), **what is** the halacha? If a **tasil** is resting **on the eggs of a pigeon**, **what is** the halacha?

PROOF

אמר אביי: תא שמע, עוף טמא רובץ על ביצי עוף טמא – פטור משילוח.

Abaye said: Come and hear a proof from our Mishnah: A **non-kosher bird resting on the eggs of a kosher bird**, or a **kosher bird resting on the eggs of a non-kosher bird**, is exempt from sending away.

INFERENCE

הא טהור וטהור – חייב!

We can infer: **But** if a **kosher** bird is resting on the eggs of another **kosher** bird, one is **obligated**! This would resolve Rabbi Zeira's dilemma.

REFUTATION

דלמא בקורא.

The Gemara rejects this: **Perhaps** this inference applies only to a **female pheasant**, which normally broods on the eggs of other birds, but not to other kosher birds.

מישנה MISHNAH

MISHNAH

קורא זכר, רבי אליעזר מחייב וחקמים פוטרין.

We learned in the Mishnah: With regard to a **male pheasant**, Rabbi Eliezer deems one **obligated** to send it away, and the **Sages deem** one **exempt**.

גמרא GEMARA

QUESTION

אמר רבי אבהו: מאי טעמא דרבי אליעזר?

Rabbi Abbahu said: What is the reasoning of Rabbi Eliezer?

EXPLANATION

אתיא "דגירה" "דגירה", פתיב הקא "קורא דגר ולא ילד", וכתוב התם "ובקעה ודגרה בצלה".

It is derived by a **gezerah shavah** of "brooding" and "brooding." It is written here regarding a male pheasant: "As the pheasant that broods over young that he has not brought forth," and it is written there regarding a female bird: "And hatch, and brood under her shadow." Just as brooding applies to a female, so too it applies to a male pheasant.

STATEMENT

אמר רבי אלעזר: מחלוקת בקורא זכר, אבל בקורא נקבה – דברי הכל חייב.

Rabbi Elazar said: The dispute between Rabbi Eliezer and the Sages is only with regard to a **male pheasant**, but with regard to a **female pheasant**, all agree that one is **obligated** to send it away.

QUESTION

פשיטא, "קורא זכר" תנן!

The Gemara asks: Isn't that obvious? We learned in the Mishnah: "A male pheasant"!

ANSWER

מהו דתימא רבנן אפילו קורא נקבה פטרי, והא דקתני "זכר" – להודיעה כח דרבי אליעזר, קמשמע לן.

The Gemara answers: Lest you say that the Sages exempt even a female pheasant because it sits on eggs of other species, and that which the Mishnah teaches "a male" is to let you know the power of Rabbi Eliezer, that he obligates even a male, therefore Rabbi Elazar comes to teach us that the Sages agree regarding a female.

STATEMENT

ואמר רבי אליעזר: מחלוקת בקורא זכר, אבל בזכר דעלמא – דברי הכל פטור.

And Rabbi Elazar also said: The dispute is only with regard to a male pheasant, but with regard to a male of any other species, all agree that one is exempt.

QUESTION

פשיטא, "קורא זכר" תנו!

The Gemara asks: Isn't that obvious? We learned in the Mishnah: "A male pheasant"!

ANSWER

מהו דתימא רבי אליעזר אפילו זכר דעלמא מחייב, והאי דקתני "קורא זכר" – להודיעה כחן דרבנן, קא משמע לן.

The Gemara answers: Lest you say that Rabbi Eliezer obligates even a male of any other species, and that which the Mishnah teaches "a male pheasant" is to let you know the power of the Sages, that they exempt even a male pheasant, therefore Rabbi Elazar comes to teach us that Rabbi Eliezer agrees regarding other males.

PROOF

תנא נמי הכי: זכר דעלמא – פטור, קורא זכר – רבי אליעזר מחייב, וחכמים פוטרין.

It is also taught in a braisa like this: A male of any other species is exempt; a male pheasant, Rabbi Eliezer obligates and the Sages exempt.

משנה MISHNAH

MISHNAH

מתני' היתה מעופפת, בזמן שכןפיה נוגעות בקן – חייב לשלח, אין כנפיה נוגעות בקן – פטור מלשלח.

MISHNAH: If the mother bird was hovering over the nest, at a time when her wings are touching the nest, one is obligated to send her away; if her wings are not touching the nest, one is exempt from sending her away.

MISHNAH

אין שם אלא אפרוח אחד או ביצה אחת – חייב לשלח, שנאמר "קן", קן מכל מקום.

If there is only one fledgling there or one egg, one is obligated to send her away, as it is stated: "A nest," which implies a nest of any kind.

MISHNAH

הָיָה שֵׁם אֶפְרוּחִים מְפָרִיחִים, אוּ בִּיצִים מוֹזְרוֹת – פָּטוּר מִלְשִׁלָּהּ, שֶׁנֶּאֱמַר "וְהָאִם רֹכֶצֶת עַל הָאֶפְרוּחִים אוּ עַל הַבִּיצִים",

If there were fledglings capable of flying there, or unfertilized eggs, one is exempt from sending her away, as it is stated: "And the mother is resting upon the fledglings or upon the eggs,"

MISHNAH

מָה אֶפְרוּחִים בְּנֵי קִימָא, אִף בִּיצִים בְּנֵי קִימָא, יֵצְאוּ מוֹזְרוֹת.

teaching: Just as fledglings are viable, so too eggs must be viable, excluding unfertilized eggs.

MISHNAH

וּמָה הַבִּיצִים צָרִיכִין לְאִמָּן, אִף הָאֶפְרוּחִין צָרִיכִין לְאִמָּן, יֵצְאוּ מְפָרִיחִין.

And just as eggs need their mother to hatch, so too fledglings must need their mother, excluding those capable of flying.

גְּמָרָא GEMARA

BRAISA

גְּמ' תָּנוּ רַבָּנָן: "רוֹכֶצֶת" – וְלֹא מְעוֹפֶפֶת.

GEMARA: The Rabbis taught in a braisa: The verse says "resting," and not hovering.

BRAISA

יָכוֹל אֶפְיָלוּ כְּנָפֶיהָ נוֹגְעוֹת בִּקְוֵן? תִּלְמוּד לומר "רוֹכֶצֶת".

One might have thought this applies even if her wings are touching the nest? Therefore, the verse teaches: "resting."

EXPLANATION

מֵאִי תִלְמוּדָא? מִדָּלָא כְּתִיב "יוֹשֶׁבֶת".

The Gemara asks: **What is the derivation?** The Gemara answers: **Since it is not written "sitting,"** but "resting," which implies a close, resting posture.

STATEMENT

אָמַר רַב יְהוּדָה אָמַר רַב: הִיָּתָה יוֹשֶׁבֶת בֵּין שְׁנֵי רוֹבְדֵי אֵילָן – רוֹאִים, כֹּל שֶׁאִם תִּשְׁמַט נוֹפֶלֶת עֲלֵיהֶם – חַיִּיב לְשַׁלָּח, וְאִם לֹא – פָּטוּר.

Rav Yehudah said in the name of Rav: If she was sitting between two branches of a tree, we see: Any case where if she slips down she would fall upon them, one is obligated to send her away, and if not, one is exempt.

OBJECTION

מִיָּתִיב: הִיָּתָה יוֹשֶׁבֶת בֵּינֵיהֶן – פָּטוּר מִלְשִׁלָּח, עַל גְּבִיָּהֶן – חַיִּיב לְשַׁלָּח,

The Gemara challenges this from a braisa: If she was sitting between them, one is exempt from sending her away; if she was on top of them, one is obligated to send her away.

OBJECTION

הִיתָה מְעוֹפֶפֶת, אֶפִּילוּ כְּנָפֶיהָ נֹגְעוֹת בָּקָן – פֶּטוּר מִלְשִׁלָּהּ.

If she was hovering, even if her wings are touching the nest, one is exempt from sending her away.

INFERENCE

מֵאִי לָאוּ עַל גְּבִיָּהּ, דּוּמְיָא דְּבִינִיָּהּ: מָה בֵּינֵיהֶן – דִּנְגָעָה בָּהּ, אִף עַל גְּבִיָּהּ – דִּנְגָעָה בָּהּ, אֲכַל רוֹבְדֵי אֵילָן – פֶּטוּר?

Is it not that "on top of them" is similar to "between them"? Just as "between them" means that she touches them, so too "on top of them" means that she touches them, but if she is on branches of a tree without touching, one is exempt? This refutes Rav!

ANSWER

לֹא, עַל גְּבִיָּהּ דּוּמְיָא דְּבִינִיָּהּ: מָה בֵּינֵיהֶן – דִּלֹּא נִגְעָה עֲלֵיהֶן, אִף עַל גְּבִיָּהּ – דִּלֹּא נִגְעָה עֲלֵיהֶן, וְהֵינּוּ רוֹבְדֵי אֵילָן.

The Gemara answers: No, "on top of them" is similar to "between them" in a different way: Just as "between them" means that she does not touch them directly from above, so too "on top of them" means that she does not touch them directly, and this is the case of branches of a tree.

PROOF

הָכִי נִמִּי מִסֵּתְבָרָא, דְּאִי סִלְקָא דַּעְתָּךְ רוֹבְדֵי אֵילָן פֶּטוּר – אֲדֹתַנִּי: הִיתָה מְעוֹפֶפֶת, אֶפִּילוּ כְּנָפֶיהָ נֹגְעוֹת בָּקָן פֶּטוּר מִלְשִׁלָּהּ, לִיתְנִי רוֹבְדֵי אֵילָן, וְכָל שָׂכֵן מְעוֹפֶפֶת!

The Gemara notes: This also makes sense, for if it should enter your mind that in the case of branches of a tree one is exempt, instead of teaching: "If she was hovering, even if her wings are touching the nest, one is exempt," let it teach the case of branches of a tree where she is sitting, and all the more so she would be exempt when hovering!

REFUTATION

מְעוֹפֶפֶת אֵינְצִטְרִיהָ לִיהָ, דְּאֶפִּילוּ כְּנָפֶיהָ נֹגְעוֹת בָּקָן – פֶּטוּר מִלְשִׁלָּהּ.

The Gemara rejects this: No, the case of hovering was necessary for it to teach, that even if her wings are touching the nest, one is exempt.

QUESTION

וְהָאֲנִי תַנֵּן: בְּזִמְן שְׂכַנְפִּיהָ נֹגְעוֹת בָּקָן חַיִּיב לְשַׁלָּהּ!

The Gemara asks: But didn't we learn in our Mishnah: At a time when her wings are touching the nest, one is obligated to send her away? This contradicts the braisa!

ANSWER

אָמַר רַבִּי יְרֵמְיָה: כִּי קִתְּנִי מִתְּנִיתָא בְּנוֹגַע מִן הָצַד.

Rabbi Yirmeya said: When our Mishnah teaches that one is obligated, it is where she touches from the side while resting, not while hovering.

STATEMENT

איכא דאמרי, לימא מסייע ליה: היתה יושבת ביניהן – פטור מלשלה, על גביהן – חייב לשלה, היתה מעופפת, אפילו כנפיה נוגעות בקן – פטור מלשלה.

There are those who say a different version of the discussion: Let us say that the braisa supports Rav: If she was sitting between them, one is exempt; on top of them, one is obligated; if she was hovering, even if her wings are touching, one is exempt.

INFERENCE

מאי לאו על גביהן, דומיא דביניהן: מה ביניהן – דלא נגעה עליהו, אף על גביהן – דלא נגעה עליהו, וחינו רובדי אילן?

Is it not that "on top of them" is similar to "between them"? Just as "between them" means that she does not touch them directly from above, so too "on top of them" means that she does not touch them, and this is the case of branches of a tree? This would support Rav!

ANSWER

לא, על גביהן דומיא דביניהן: מה ביניהן – דנגעה בהו, אף על גביהן – דנגעה בהו. אבל רובדי אילן – פטור.

The Gemara answers: No, "on top of them" is similar to "between them": Just as "between them" means that she touches them, so too "on top of them" means that she touches them. But if she is on branches of a tree without touching, one is exempt.

OBJECTION

אי הכי, אדקתני סיפא: היתה מעופפת, אפילו כנפיה נוגעות בקן – פטור,

The Gemara objects: If so, instead of teaching in the latter clause: "If she was hovering, even if her wings are touching the nest, one is exempt,"

SUMMARY

The Gemara rejects various challenges to Rabbi Yitzchak's rule, explaining that extra words like "kosher" and "living" in the context of the metzora's birds are not coming to teach us that there are non-kosher species called "tzippor." Rather, they are needed to exclude specific disqualified birds, such as treifot, birds from an idolatrous city, birds exchanged for avodah zarah, or a bird that killed a person before its trial was finished. Finally, the Gemara transitions back to the laws of Shiluach HaKan, establishing that if a non-kosher bird sits on kosher eggs, one is exempt from the mitzva of sending it away.

The Gemara is bothered by the words "kosher birds" in the purification process of the metzora. If they must be kosher, why does the Torah need to write it? Rav Nachman bar Yitzchak answers that it comes to exclude the birds of an idolatrous city (Ir HaNidachas). The Gemara asks: for what part of the mitzvah are they excluded? If you say for sending the bird away, that cannot be, because "the Torah did not say to send a bird to become a stumbling block for others" who might find and eat this forbidden bird. Mimeila, the exclusion must be for the slaughtering.

Look at the beautiful yesod Chazal are teaching us here. The entire mitzvah of shiluach haken is about sending a bird away to its freedom. Yet, the Torah is so concerned that this act of sending away might cause another Yid to stumble and eat something forbidden, that it completely disqualifies such a bird from the mitzvah from the very start! We see from here a tremendous chiddush in our own avodas Hashem: you can never build your own mitzvah, your own spiritual growth, or your own feelings of doing a chesed, on the back of someone else's potential spiritual downfall.

Lichoira, we sometimes get so excited about our own hiddurim or our own personal spiritual projects that we forget to look around. If your chumra or your way of doing a mitzvah is going to cause a family member to lose their peace of mind, or if it creates a stumbling block of resentment or anger for someone else, then the Torah says, "Do not send it to become a stumbling block!" Our personal avodah must be clean, pure, and sensitive to the spiritual and physical well-being of every other Yid.

Today, before you perform a mitzvah or take on a hiddur, pause for one second and ask yourself: Is this being done in a way that is completely clean, without causing any pain, resentment, or spiritual stumbling block to those around me?