

## דף יומי • חל"ן • דף קמ"א

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

## THE SUGYA

We start off on our daf with a beautiful shakla v'tarya on the details of shiluach haken. The Gemara is medayek on a baraita regarding a hovering bird, asking why the Tanna didn't teach a more obvious case of exemption, and resolves this by distinguishing between a bird touching the nest from the side versus from above. We then move into a fascinating discussion where a Sage challenges Rava on the source for sending away the mother even when there is only a single fledgling or egg, leading Rava to explain how the Hekesh in the pesukim teaches us the halachos of which fledglings and eggs are included.

Next, we learn a new Mishnah that teaches the halacha of a mother bird that keeps returning to the nest. The Mishnah tells us that even if she returns four or five times, one is still obligated to send her away again, based on the double expression of "shalle'ach teshallach." The Gemara immediately jumps in to analyze this double wording, questioning how many times it actually obligates us, and explores whether the mitzvah of shiluach haken can be overridden by another mitzvah, specifically the purification process of a metzora.

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

## עמוד א' DAF 141A

## QUESTION

## ליתני רובדי אילו, וכל שכן מעופפת?

The Gemara asks: **Let** the baraita **teach** the exemption in a case where the bird is sitting between **two tree branches**, which is closer to the nest, **and** then we would know **all the more so** that one is exempt if the mother is **hovering** further away! Why did it teach the case of hovering?

## ANSWER

## מעופפת איצטריה ליה, דאפילו כנפיה נוגעות בך – פטור מלשלח.

The Gemara answers: Teaching the case of a **hovering** bird was **necessary** for it, as it teaches us **that even if its wings are touching the nest**, one is still **exempt from sending** away the mother bird.

## OBJECTION

## והאנן תנן: בזמן שכןפיה נוגעות בך – חייב לשלח!

The Gemara objects: **But didn't we learn** in our Mishnah: **When its wings are touching the nest**, one is **obligated to send** away the mother? This contradicts the baraita!

## RESOLUTION

## אמר רב יהודה: כי קתני מתניתין – בנוגע מן הצד.

**Rav Yehuda said:** **When the** baraita **teaches** that a hovering bird is exempt even if its wings touch, it is referring **to** a case where the wings are **touching from the side**. In that case, she is not considered resting on the nest. But our Mishnah, which obligates, is

talking about when she touches from above.

## מִשְׁנָה MISHNAH

### MISHNAH

אֵין שֵׁם אֶפְרוֹחַ וְכוּ'.

The Gemara quotes the Mishnah: If **there is no fledgling there, etc.**, but only one fledgling or one egg, one is still obligated to send away the mother.

## גְּמָרָא GEMARA

### QUESTION

אָמַר לִיהָ הָהוּא מִרְבֵּנּוּ לְרָבָא: אֵימָא אִיפְכָא, אֵין שֵׁם אֶפְרוֹחַ אֱלָא אֶחָד אוּ בֵיצָה אַחַת – פֶּטוּר מִלְשֵׁלָה, דְּבָעִינוּ "אֶפְרוֹחִים אוּ בֵיצִים" וְלִיכָא.

One of the Sages said to Rava: Say the opposite of our Mishnah's ruling: If **there is no fledgling there except one**, or only **one egg**, one should be **exempt from sending** away the mother, as **we require** the plural "fledglings or eggs" and here **there are none** since there is only one.

### QUESTION

הָיוּ שֵׁם אֶפְרוֹחִים מִפְּרִיחִים אוּ בֵיצִים מִזֵּזֵרוֹת, חֵיִיב לְשַׁלָּה, שְׁנָאֵמַר "קוּ" – קוּ מִכָּל מְקוֹם.

And conversely, if **there were fledglings capable of flying or unfertilized eggs there**, one should be **obligated to send** away the mother, as **it is stated**: "A nest"—which implies a **nest in any case**, regardless of what is inside it.

### ANSWER

אִם כֵּן, נִכְתוּב קָרָא "וְהָאֵם רוֹבֶצֶת עֲלֵיהֶם", מֵאִי "וְהָאֵם רוֹבֶצֶת עַל הָאֶפְרוֹחִים אוּ עַל הַבֵּיצִים"?

Rava answered: If **so**, that the words "fledglings" and "eggs" are meant literally to exclude a single one, **let the verse write**: "**And the mother is resting upon them.**" What is the meaning of the longer phrase: "**And the mother is resting upon the fledglings or upon the eggs**"?

### ANSWER

לְאֶקוּשֵׁי אֶפְרוֹחִים לְבֵיצִים וּבֵיצִים לְאֶפְרוֹחִים.

It is **to compare fledglings to eggs and eggs to fledglings** to teach that just as eggs need their mother and have potential for life, so must the fledglings. This excludes flying fledglings and unfertilized eggs. Therefore, the word "nest" is freed up to teach that even a single fledgling or egg is included.

## מִשְׁנָה MISHNAH

### MISHNAH

מתני' שלחה וחררה, אפילו ארבעה וחמשה פעמים – חייב, שנאמר: "שִׁלַּח תִּשְׁלַח אֶת הָאִם".

MISHNAH: If one sent away the mother bird and it returned to rest on the nest, even if it returned four or five times, one is still obligated to send it away again, as it is stated: "You shall surely send [shalle'ach teshallach] the mother."

#### MISHNAH

אמר: הריני נוטל את האם ומשלח את הבנים – חייב, שנאמר: "שִׁלַּח תִּשְׁלַח אֶת הָאִם".

If one said: "I am hereby taking the mother and sending away the offspring," he is still obligated to send away the mother, as it is stated: "You shall surely send the mother."

#### MISHNAH

נטל את הבנים והחזירן לה, ואחר כך חזרה האם עליהן – פטור מלשלח.

If one took the offspring and returned them to the nest, and afterward the mother returned and rested upon them, one is exempt from sending away the mother bird, because this is no longer a naturally occurring nest.

### גמרא GEMARA

#### QUESTION

גמ' אמר ליה ההוא מרבנן לרבא, ואימא: "שלח" – חדא זימנא, "תשלח" – תרי זימנין.

GEMARA: One of the Sages said to Rava: But say instead that the double verb teaches: "Shalle'ach" means one time, and "teshallach" means two times, but beyond that there is no further obligation!

#### ANSWER

אמר ליה: "שלח" – אפילו מאה פעמים, "תשלח" – אין לי אלא לדבר הרשות, לדבר מצוה מניין?  
תלמוד לומר "תשלח" – מכל מקום.

Rava said to him: The word "shalle'ach" alone implies even a hundred times. Rather, the extra word "teshallach" comes to teach: I have derived only the obligation to send away the mother for a discretionary matter, such as when one wants to eat the offspring. But if one needs the mother for a mitzvah matter, such as for the purification of a metzora, from where do we know he must still send her away? The verse states: "Teshallach"—to teach that one must send her away in any case.

#### QUESTION

אמר ליה רבי אבא בריה דרב יוסף בר רבא לרב כהנא: אלא טעמא דכתב רחמנא "תשלח", הא לאו  
הכי, הוה אמינא: לדבר מצוה לא?

Rabbi Abba, the son of Rav Yosef bar Rava, said to Rav Kahana: But according to this, the reason is only because the Merciful One wrote "teshallach"; but if not for this, would I have said that for a mitzvah matter, one does not have to send her away?

#### QUESTION

עשה ולא תעשה הוא, ואאין עשה דוחה לא תעשה ועשה!

But sending away the mother bird is both a positive mitzvah and a negative commandment, and there is a rule that a positive mitzvah of the metzora cannot override both a negative commandment and a positive mitzvah of shiluach haken! So why

would we need a special verse to teach that the metzora's mitzvah does not override it?

#### ANSWER

לֹא צָרִיכָא, דְּעֵבֶר וְשָׁקְלָהּ לָאֵם, דְּלֹא עֲבָרִיהּ, עֲשֶׂה הוּא דְאִיכָא, לִיתִי עֲשֶׂה וְלִידְחִי עֲשֶׂה, קָא מְשַׁמַּע לָן.

Rav Kahana answered: No, the verse is necessary for a case where he transgressed and took the mother. Since he already transgressed the negative commandment, there is now only a positive mitzvah remaining to send her away. We might have thought: Let the positive mitzvah of the metzora come and override the positive mitzvah of sending her away. Therefore, the verse teaches us that it does not.

#### STATEMENT

הַנִּיחָא לְמֵאן דְּתַנִּי קְיַיְמוּ וְלֹא קְיַיְמוּ.

The Gemara notes: This works out well according to the one who teaches that the violation of this negative commandment depends on whether he fulfilled the positive mitzvah afterward or did not fulfill it, meaning that as soon as he took her and delayed sending her, he immediately violated the negative commandment, so only the positive mitzvah remains.

#### OBJECTION

אֵלֹא לְמֵאן דְּתַנִּי בְטָלוֹ וְלֹא בְטָלוֹ, כַּמָּה דְּלֹא שְׁחִטָה – לֹא עֲבָרִיהּ לְלֹא.

But according to the one who teaches that the violation depends on whether he actively nullified it or did not nullify it, then as long as he did not slaughter her, he has not yet violated the negative commandment. Thus, the negative commandment is still active, and the mitzvah of the metzora still cannot override both!

#### OBJECTION

וְתוּ, לְרַבִּי יְהוּדָה דְּאָמַר "שְׁלַח" מַעֲיָקְרָא מְשַׁמַּע, אֶפְיָלוּ עֲשֶׂה נָמִי לִיכָא!

And furthermore, according to Rabbi Yehuda, who says that the command "send" implies that one must do so from the outset, and if he took her he cannot rectify it, then once he took her, even the positive mitzvah is no longer applicable! So how can the metzora's mitzvah override it?

#### RESOLUTION

אֵלֹא אָמַר מַר בַּר רַב אֲשִׁי: כְּגוֹן שֶׁנִּטְלָה עַל מְנַת לְשַׁלַּח, דְּלֹא לִיכָא, עֲשֶׂה הוּא דְאִיכָא, וְלִיתִי עֲשֶׂה וְלִידְחִי עֲשֶׂה.

Rather, Mar bar Rav Ashi said: The verse is necessary in a case where he took her on the condition to send her away, so there is no negative commandment violated at all; there is only a positive mitzvah to send her. We might have thought: Let the positive mitzvah of the metzora come and override the positive mitzvah of sending her away.

#### QUESTION

מַאי אוּלְמִיָּה דְּהֵאִי עֲשֶׂה מֵהֵאִי עֲשֶׂה?

The Gemara asks: What is the strength of this positive mitzvah of the metzora over this positive mitzvah of sending the bird, that we would think it overrides it?

#### ANSWER

סָלָקָא דַּעְתָּהּ, הוּאִיל וְאָמַר מָר: גָּדוֹל שְׁלוֹם שְׂכִין אִישׁ לְאִשְׁתּוֹ, שֶׁהָרִי אָמְרָה תוֹרָה: שְׁמוֹ שֶׁל הַקָּדוֹשׁ בְּרוּךְ הוּא שֶׁנִּכְתָּב בְּקִדּוּשָׁה יִמָּחָה עַל הַמַּיִם.

The Gemara answers: It might enter your mind to say: Since the Master said: Great is the peace between a man and his wife, for the Torah said that the name of the Holy One, Blessed be He, which is written in holiness, may be erased in the water of the sotah to bring peace between them.

#### ANSWER

וְהָאִי מִצְוָרָע, כִּינּוֹן דְּכַמָּה דִּלָּא מִטָּהָר, אָסוּר בְּתַשְׁמִישׁ הַמָּטָה, דְּכַתִּיב: "וַיָּשָׁב מִחוּץ לְאָהֳלוֹ שִׁבְעַת יָמִים", "אָהֳלוֹ" – זֶה אִשְׁתּוֹ, מִכָּאן שֶׁאָסוּר בְּתַשְׁמִישׁ הַמָּטָה.

And this metzora, since as long as he is not purified, he is forbidden in marital relations, as it is written: "And he shall dwell outside his tent for seven days," and "his tent" means his wife, from here we derive that he is forbidden in marital relations.

#### ANSWER

מִהוּ דְּתִימָא: כִּינּוֹן דְּאָסוּר בְּתַשְׁמִישׁ הַמָּטָה, לִיתִי עֲשֵׂה דִידִיָּה וְלִידִיָּה עֲשֵׂה דְשְׁלוֹחַ הַקּוֹן, קָא מְשַׁמַּע לָן.

Lest you say: Since he is forbidden in marital relations, let his positive mitzvah of purification, which restores peace between husband and wife, come and override the positive mitzvah of sending away the nest. Therefore, the verse teaches us that we may not do so.

### מִשְׁנָה MISHNAH

#### MISHNAH

מִתְנִי הַנוּטֵל אִם עַל הַבָּנִים – רַבִּי יְהוּדָה אוֹמֵר: לוֹקָה וְאִינוּ מְשַׁלְּחִים, וְחַכָּמִים אוֹמְרִים: מְשַׁלְּחִים וְאִינוּ לוֹקָה.

MISHNAH: One who takes the mother with the offspring—Rabbi Yehuda says: He is lashed and does not send her away. But the Sages say: He sends her away and is not lashed.

#### MISHNAH

זֶה הַכָּלָל: כָּל מִצְוֹת לֹא תַעֲשֶׂה שִׁישׁ בָּהֶם קוֹם עֲשֵׂה – אֵין לוֹקִין עֲלֶיהָ.

This is the general rule: For any negative commandment that has attached to it a positive commandment to arise and perform, one is not lashed for it.

### גְּמָרָא GEMARA

#### QUESTION

גְּמ' בְּעֵי רַבִּי אַבָּא בַּר מִמְּל: טַעְמָא דְּרַבִּי יְהוּדָה מִשּׁוּם דְּסָבַר לֹא שְׁנִיתָק לַעֲשֵׂה לוֹקִין עֲלֵיו.

GEMARA: Rabbi Abba bar Memel raised a dilemma: Is the reason of Rabbi Yehuda because he holds that for a negative commandment that is linked to a positive commandment, one is lashed for it?

QUESTION

או דלמא בעלמא סבר, לא שניתק לעשה אין לוקין עליו, והכא היינו טעמא, משום דקסבר  
”שלח” מעיקרא משמע.

Or perhaps in general he holds that for a negative commandment linked to a positive commandment, one is not lashed for it, and here, this is the reason: because he holds that “send” implies that one must do so from the outset, and once he took her, the positive mitzvah is gone, leaving only a standard negative commandment?

PROOF

תא שמע: גנב וגזלן ישנן בכלל מלקות, דברי רבי יהודה.

Come and hear a proof: A thief and a robber are included in the punishment of lashes; these are the words of Rabbi Yehuda.

PROOF

והא הכא, דלאו שניתק לעשה הוא, דרחמנא אמר “לא תגזול” “והשיב את הגזלה”.

And here, is it not a negative commandment linked to a positive commandment, as the Merciful One said: “Do not rob,” and “He shall return the stolen object”? Yet Rabbi Yehuda rules that he is lashed.

PROOF

שמע מינה טעמא דרבי יהודה משום דקסבר לאו שניתק לעשה לוקין עליו.

Learn from this that the reason of Rabbi Yehuda is because he holds that for a negative commandment linked to a positive commandment, one is lashed for it.

OBJECTION

אמר ליה רבי זירא: לאו אמינא לכו, כל מתניתא דלא תנא בי

Rabbi Zeira said to him: Did I not say to you that any baraita that was not taught in the academy of Rav Chiya and Rav Oshaia is not reliable to build a proof from?

עמוד ב' DAF 141B

STATEMENT

רבי חייא ובי רבי אושעיא משפשתא היא, ולא תותבו מינה בי מדרשא,

The baraisa that was not taught in the study hall of Rabbi Chiyya or in the study hall of Rabbi Oshaya is corrupted, and you may not raise objections from it in the study hall.

EXPLANATION

דלמא אינה בכלל מלקות ארבעים תנא.

So **perhaps** the phrase "they are not included among those who are liable to receive forty lashes" was indeed **taught** by Rabbi Yehuda in that baraisa, but the text was corrupted, and Rabbi Yehuda actually holds that one is not flogged for a prohibition that entails a positive mitzvah.

#### QUESTION

תא שִׁמְעוּ, דְּתַנִּי רַבִּי אוֹשְׁיָא וְרַבִּי חִיְיָא:

The Gemara suggests: **Come and hear** a resolution from that which Rabbi Oshaya and Rabbi Chiyya taught in a reliable baraisa:

#### BRAISA

"לֹא תָשׁוּב" וְשָׁב, "לֹא תִכְלֶה" וְכָלָה – יִשְׁנֶנּוּ בְּכָל־ל מְלָקוֹת אַרְבָּעִים, דְּבָרֵי רַבִּי יְהוּדָה.

If one transgressed the prohibition of "you shall not return" to take a forgotten sheaf and he returned, or if he transgressed "you shall not wholly reap" the corner of the field and he reaped it, such individuals are included among those who are liable to receive forty lashes; these are the words of Rabbi Yehuda.

#### PROOF

שָׁמַע מִיִּנְה טַעְמִיה דְּרַבִּי יְהוּדָה, מִשּׁוּם דְּקָסְבֵּר לֹא שְׁנִיתֵק לַעֲשֹׂה – לֹקֵינן עָלָיו.

The Gemara concludes: **Learn from it** that the reasoning of Rabbi Yehuda in our Mishnah is because he holds that for a prohibition that entails fulfillment of a positive mitzvah, we flog him for it.

#### REFUTATION

דְּלִמָּא הָתֵם הֵיִינוּ טַעֲמָא, דְּקָסְבֵּר "תַּעֲזֹב" מַעֲיָקְרָא מִשְׁמַע.

The Gemara rejects this: **Perhaps there**, regarding pe'ah and forgotten sheaves, **this is the reason** Rabbi Yehuda flegs him, **because he holds** that the positive mitzvah of "you shall leave" them for the poor **implies** that this must be done **at the outset**, and it is not a positive mitzvah meant to rectify the transgression. Therefore, it is not a prohibition that entails a positive mitzvah at all.

#### QUESTION

אָמַר לִיה רַבִּינָא לְרַב אָשִׁי: תא שִׁמְעוּ,

Ravina said to Rav Ashi: Come and hear a proof from another baraisa:

#### BRAISA

"לֹא תוֹתִירוּ מִמֶּנּוּ עַד בֹּקֶר וְגו' בְּאֵשׁ תִּשְׂרֹפוּ" – בָּא הַכָּתוּב לִיתֵן עֲשֹׂה אַחֵר לֹא תַעֲשֶׂה, לֹאמַר לָךְ שְׂאִין לֹקֵינן עָלָיו, דְּבָרֵי רַבִּי יְהוּדָה.

Regarding the Pesach offering, the Torah says: "You shall let nothing of it remain until morning... you shall burn in fire." The verse comes to place a positive mitzvah after a prohibition, to tell you that we do not flog him for it; these are the words of Rabbi Yehuda.

#### RESOLUTION

שָׁמַע מִיִּנְה: טַעְמָא דְּרַבִּי יְהוּדָה מִשּׁוּם דְּקָסְבֵּר "שְׁלַח" מַעֲיָקְרָא מִשְׁמַע, שָׁמַע מִיִּנְה.

**Learn from it** that according to Rabbi Yehuda, one is not flogged for a prohibition that entails a positive mitzvah, and **the reasoning of Rabbi Yehuda** in our Mishnah is **because he holds** that the word "send away" **implies** that the mitzvah applies

only **at the outset**, making the taking of the mother bird a standard prohibition. The Gemara agrees: **Learn from it** that this is indeed the case.

#### INFERENCE

אמר ליה רב אידי לרב אשי: מתניתין נמי דיקא, דקתני:

Rav Idi said to Rav Ashi: Our Mishnah is also precise in this way, as it teaches:

#### מִשְׁנָה MISHNAH

#### MISHNAH

הנוטל אם על הפנים – רבי יהודה אומר: לוקה ואין משלח,

One who takes the mother with the offspring, Rabbi Yehuda says: He is flogged and he does not send away the mother.

#### גְּמָרָא GEMARA

#### INFERENCE

ואי סלקא דעתך טעמא דרב יהודה לאו שניתק לעשה לוקין עליו, "לוקה ומשלח" מבעי ליה!

And if it enters your mind to say that the reasoning of Rabbi Yehuda is that for a prohibition that entails a positive mitzvah, we flog him for it, then he should have taught: "He is flogged and he sends away"!

#### REFUTATION

ודלמא הכי קאמר במתניתין: אין נפטר עד דמלקין ליה.

The Gemara rejects this: **And perhaps this is what he is saying in the Mishnah:** He still has to send her away, but he is **not released** from his sin **until they flog him**.

#### QUESTION

עד כמה משלחה? אמר רב יהודה: כדי שתצא מתחת ידו.

The Gemara asks: **How far must he send her?** Rav Yehuda said: Far enough that she leaves his grasp and cannot be caught immediately.

#### QUESTION

כמה משלחה? רב הונא אמר: ברגליה, רב יהודה אמר: באגפיה.

The Gemara asks: **In what manner does he send her away?** Rav Huna said: By her feet. Rav Yehuda said: By her wings.

#### EXPLANATION

רב הונא אמר ברגליה, דכתיב: "משלחי רגל השור והחמור".

Rav Huna said "by her feet," as it is written: "That send forth the feet of the ox and the donkey."

## EXPLANATION

רב יהודה אמר באגפיה, דהא כנפיה נינהו.

Rav Yehuda said "by her wings," because her wings are like her feet, as she moves about with them.

## STATEMENT

ההוא דגזינהו לגפה, ושלחה, ואחר כך תפשה. נגדיה רב יהודה. אמר ליה: זיל רבי לה גדפיה, ושלחה!

There was a certain man who clipped her wings, and sent her away, and afterwards caught her. Rav Yehuda flogged him. He said to him: Go and let her wings grow back, and then send her away.

## QUESTION

כמאן? אי פרבי יהודה – לוקה ואין משלח, אי פרבנן – משלח ואין לוקה!

The Gemara asks: In accordance with whose opinion did Rav Yehuda act? If it is in accordance with Rabbi Yehuda, then he is flogged and does not send away. If it is in accordance with the Rabbis, he sends away and is not flogged!

## ANSWER

לעולם פרבנן, ומפת מרדות מדרבנן.

The Gemara answers: Actually, he acted in accordance with the Rabbis, and the lashes he received were rabbinic lashes for rebelliousness, because he acted improperly.

## STATEMENT

ההוא דאתא לקמיה דרבא, אמר ליה: תימא מהו?

There was a certain man who came before Rava and said to him: What is the halachah regarding the kosher bird called teimah? Is one obligated to send away the mother?

## STATEMENT

אמר: לא ידע האי גברא דעוף טהור חייב לשלוחי?

Rava said: Does this man not know that for any kosher bird, one is obligated to send away the mother?

## STATEMENT

אמר ליה: דילמא חדא ביעתא הוא דרמיא?

The man said to him: Perhaps the question is because it laid only one egg?

## STATEMENT

אמר ליה: (האי ידעי) [אין. אמר ליה: מאי תיבעי] לה? מתניתין היא: אין שם אלא אפרוח אחד או ביצה אחת – חייב לשלח.

Rava said to him: Yes, what is your question? It is explicitly taught in our Mishnah: If there is only one chick or one egg, one is obligated to send away the mother.

## STATEMENT

שְׁלַחָהּ, וְאַחֲרָיָהּ רָבָא פְּרִסְתָּקֵי וְתַפְסָהּ.

The man sent her away, and Rava sent his messengers after her and caught her for himself.

#### QUESTION

וְלִיחוּשׁ לַחֲשָׁדָא? כִּלְאַחֲרָיָהּ.

The Gemara asks: **But should we not be concerned about suspicion** that Rava was violating the mitzvah? The Gemara answers: He caught her **in an unusual manner**, showing he was only doing it after the mitzvah was completed.

#### BRAISA

תָּנוּ רַבָּנֵינוּ: יוֹנֵי שׁוֹכֵהֶּ וְיוֹנֵי עֲלִיָּה – חֵיבוּת בְּשִׁלּוּחַ, וְאַסּוּרוֹת מְשׁוּם גִּזְלַת מִפְּנֵי דֶרֶכִי שְׁלוֹם.

The Rabbis taught: Doves of a dovecote and doves of an attic are obligated in sending away the mother, and they are forbidden because of robbery for the sake of peace.

#### QUESTION

וְאִי אֵינָא לָהּ דְּאָמַר רַבִּי יוֹסִי בַּר רַבִּי חֲנִינָא, חֲצִירוֹ שֶׁל אָדָם קוֹנֶה לוֹ שְׁלֹא מִדַּעְתּוֹ, קָרִי כָּאֵן "כִּי יִקְרָא" – פֶּרֶט לְמִזְוָמָן!

And if it is so, that which Rabbi Yose bar Rabbi Chanina said, that a person's courtyard acquires for him without his knowledge, then read here: "If you happen upon" a nest, which excludes that which is already prepared and acquired in one's courtyard!

#### ANSWER

אָמַר (רַב) [רַבָּה]: בִּיצָה – עִם יְצִיאַת רוֹבָהּ הוּא דְּאֶחָיִיב בְּשִׁלּוּחַ, מִקְּנָא לָא קָנִי עַד דְּתַפּוּל לְחֲצִירוֹ, וְכִי קָתְנִי חֵיבוּת בְּשִׁלּוּחַ – מִקְּמִי דְּתַפּוּל לְחֲצִירוֹ.

Rabbah said: An egg, with the emergence of most of it from the mother, is when it becomes obligated in sending away, but it is not acquired until it falls into his courtyard; and when it teaches "they are obligated in sending away," it refers to the moment before it falls into his courtyard.

#### QUESTION

אִי הָכִי, אֲמַאי אַסּוּרוֹת מְשׁוּם גִּזְלַת? אֲמָרֵם.

The Gemara asks: If so, why are they forbidden because of robbery? The Gemara answers: This refers to their mother, which is already owned.

#### ANSWER

וְאִיבָעִית אִימָא: לְעוֹלָם אֲבִיצָה, וּבִיצָה כִּינּוּן דְּנִפְקָ לִיהּ רוֹבָא – דַּעֲתִיָּה עֲלִיָּהּ.

And if you want, say: Actually, it refers to the egg, and regarding the egg, once most of it emerged, his mind is set upon it to acquire it, even before it touches the ground.

#### STATEMENT

וְהִשְׁתָּא דְּאָמַר רַב יְהוּדָה אָמַר רַב: אַסּוּר לְזַכּוֹת בְּבִיצִים שֶׁהָאֵם רוֹבָצָת עֲלֵיהֶן, שְׁנַאֲמַר: "שְׁלַח אֶת הָאֵם" וְהָדַר "הַבָּנִים תִּקַּח לָהּ".

And now that Rav Yehuda said in the name of Rav: It is forbidden to acquire eggs while the mother is crouching upon them, as it is said: "You shall surely send away the mother," and only afterwards "the young you may take for yourself."

#### EXPLANATION

אֲפִילוּ תִּמָּא אֶף עַל גַּב דְּנִפְל לְחֵצְרוֹ, כָּל הֵיכָא דְּאִיהוּ מִצִּי זָכִי – חֵצְרוֹ נָמִי זָכִיא, וְכָל הֵיכָא דְּאִיהוּ לֹא מִצִּי זָכִי – חֵצְרוֹ נָמִי לֹא זָכִיא לִיה.

You may even say that even though it fell into his courtyard, the courtyard does not acquire it, because anywhere that he himself is able to acquire, his courtyard also acquires, but anywhere that he himself is not able to acquire, his courtyard also does not acquire for him.

#### QUESTION

אִי הָכִי, אֲמַאי אֲסוּרוֹת מִפְּנֵי דְּרַכֵּי שְׁלוֹם? אִי דְּשִׁלְחָה – גָּזַל מְעַלְיָא הוּא, אִי דְּלֹא שִׁלְחָה – שְׁלוּחֵי בָּעִי!

The Gemara asks: If so, why are they forbidden only for the sake of peace? If he sent her away, it is actual robbery! If he did not send her away, he is required to send her away!

#### ANSWER

בְּקָטָן.

The Gemara answers: This refers to a minor who took them.

#### QUESTION

קָטָן פַּר דְּרַכֵּי שְׁלוֹם הוּא?

The Gemara asks: Is a minor subject to the laws of the sake of peace?

#### ANSWER

הָכִי קָאָמַר: אָבִיו שֶׁל קָטָן חַיִּיב לְהַחְזִיר לוֹ, מִפְּנֵי דְּרַכֵּי שְׁלוֹם.

This is what it is saying: The father of the minor is obligated to return it to him, for the sake of peace.

#### STATEMENT

לְוִי בַר סִימּוֹן אֶקְנִי פִּירוֹת שׁוֹבְכוּ לְרַב יְהוּדָה. אֵתָא לְקַמִּיָּה דְּשְׁמוּאֵל, אָמַר לִיה: זֵיל טְרוּף אֲקָן, דְּלִיתְגַּבְהוּ וּקְנִינָהוּ.

Levi bar Simon transferred ownership of the offspring of his dovecote to Rav Yehuda. He came before Shmuel, who said to him: Go and stir the nest so that they fly up, and then acquire them.

#### QUESTION

לְמַאי? אִי לְמַקְנָא – לְקַנִּינָהוּ לִיה בְּסוּדֶר! אִי בְּיוֹם טוֹב –

The Gemara asks: For what purpose did Shmuel tell him to do this? If it was to acquire them, let him acquire them with a scarf! If it was on Yom Tov—

#### SUMMARY

In short, the daf clarifies that a hovering bird is only exempt from shiluach haken if its wings touch the nest from the side, whereas touching from above is considered resting and requires sending her away. Through Rava's exposition of the pesukim, we establish that the mitzvah applies even to a single fledgling or egg, while excluding flying fledglings and unfertilized eggs. Finally, the Gemara explains that the double wording of "shalle'ach teshallach" teaches that the obligation of sending away the mother applies infinitely, and further serves to teach that this mitzvah is not overridden by the positive mitzvah of a metzora's purification, even in a scenario where only a positive commandment remains active.

## למעשה WHAT TO TAKE HOME

The Gemara is bothered by a deep question: why does the Torah need a special pasuk, "teshallach," to teach us that even if a person needs this mother bird for a mitzvah, specifically, for the purification of a metzora, he must still send her away?

Lichoira, we have a rule that a positive mitzvah cannot override both a negative and a positive commandment. The Gemara answers that we might have thought the mitzvah of the metzora should take precedence because of the immense value of shalom. A metzora is forbidden to live with his wife while impure, and since Hashem's very name is erased to bring peace between a husband and wife in the case of a sotah, we might have thought this great need for shalom should override the mitzvah of shiluach haken. The Torah is mechadesh that even for such a lofty goal, we cannot bypass the ratzon Hashem in front of us.

Look at the yesod the Gemara is teaching us here. We often find ourselves in situations where we want to do a great thing, a beautiful mitzvah, or something that will bring peace and harmony. It is so easy to convince ourselves that the end justifies the means, or that a "smaller" halachah can be pushed aside for the sake of a "greater" spiritual goal. We think, "Lichoira, this is for shalom bayis!" or "This is for a d'var mitzvah!" But the Torah tells us: No. A mitzvah that comes through violating another halachah is not what Hashem wants from you.

Your avodah in this world is to do the will of Hashem exactly as it is laid out in the Shulchan Aruch, without making calculations that we know better. If Hashem put a specific halachah in front of you right now, that is your ratzon Hashem for this moment. You cannot build a binyan of holiness on a foundation of compromise. When we stay true to every single detail of the halachah, even when we think a greater mitzvah is at stake, we show true yiras Shamayim.

Today, if you find yourself tempted to bend a halachah, even for a seemingly noble cause like avoiding a minor argument, helping someone else, or performing another mitzvah, stop and remind yourself that Hashem wants your obedience to His law exactly as it is written, right now.