

NOTES

Roofed and unroofed – מקורה ואינו מקורה: It is proven in the Jerusalem Talmud that it cannot be referring to a roofed location, as even though it is possible to speak of a roofed courtyard, a garden cannot be roofed. It is therefore clear that this cannot be the distinction between the sources.

המחוסר צידה – אסור, ושאינו מחוסר צידה – מותר.

inside such an enclosure whose trapping is inadequate, meaning that the enclosure is large and contains hiding places so that it is still necessary to pursue and apprehend the animal, it is **prohibited** for one to catch it; and with regard to any animal whose trapping is not inadequate, as it is possible to seize it immediately without having to engage in further pursuit, it is **permitted** for one to catch it.

גמ' ורמינהו: ביברין של חיה ושל עופות – אין צדין מהם ביום טוב, ואין נותנין לפניהם מזונות. קשיא חיה אחיה, קשיא עופות אעופות!

GEMARA And the Gemara raises a contradiction from what is stated in the *Tosefta*: From enclosures of animals and of birds, one may not trap animals or birds on a Festival, nor may one place food before them. This is difficult due to a contradiction between the ruling with regard to an animal in the mishna and the ruling with regard to an animal in the *Tosefta*. This is similarly difficult due to a contradiction between the ruling with regard to birds in the mishna and the ruling with regard to birds in the *Tosefta*.

בשלמא חיה אחיה לא קשיא: הא – רבי יהודה, הא – רבנן.

The Gemara resolves the first contradiction: **Granted**, with regard to the contradiction between the ruling concerning an animal in the mishna and the ruling concerning an animal in the *Tosefta*, it is **not difficult**, because **this**, the *baraita* that prohibits trapping and feeding animals in the enclosures, is in accordance with the opinion of **Rabbi Yehuda**, who holds that an animal trapped in an enclosure whose trapping is inadequate, i.e., it is still necessary to pursue and apprehend the animal, is not considered trapped, and therefore one may not trap it from the enclosure on a Festival. Whereas **that**, the mishna that permits trapping and feeding the animals in the enclosures, is in accordance with the opinion of **the Rabbis**, who maintain that an animal in an enclosure is considered trapped, and therefore removing it from there is not considered an act of hunting.

דתנן רבי יהודה אומר: הצד צפור למגדל וצבי לבית – חייב. לבית הוא דמחייב, אבל לביברין – לא. וחכמים אומרים: צפור למגדל, וצבי לגנה ולחצר ולביברין.

As we learned in a mishna: **Rabbi Yehuda says: One who drives and traps a bird into a closet or a deer into a house is liable.** The Gemara infers from this: **It is only if he traps the animal into a house that he is liable, but if he traps it into an enclosure, he is not liable.** And the Rabbis say: One is liable for trapping a bird into a closet, and for trapping a deer into a garden, or into a courtyard, or into an enclosure. This demonstrates that according to the Rabbis, an animal found inside an enclosure is regarded as already captured, whereas Rabbi Yehuda disagrees. From this it follows that Rabbi Yehuda and the Rabbis similarly disagree about catching an animal inside an enclosure and removing it from there on a Festival.

אלא עופות אעופות קשיא. וכי תימא: הא נמי לא קשיא; הא – בביבר מקורה, הא – בביבר שאינו מקורה.

However, concerning the contradiction between the ruling with regard to birds in the mishna and the ruling with regard to birds in the *Tosefta*, it is **difficult**, as all agree that they may not be caught, even in one's house. And if you say that **this** contradiction is **also not difficult**, because **this**, the mishna that permits trapping, is referring to a **roofed enclosure**, in which a bird is considered captured, and therefore there is no prohibition against apprehending it on a Festival, and **that**, the *baraita* that prohibits trapping, is referring to an **unroofed^N enclosure**, in which a bird is not considered trapped and apprehending it is prohibited, that does not resolve the contradiction.

והא בית, דכביבר מקורה דמי, ובין לרבי יהודה ובין לרבנן צפור למגדל – אין, לבית – לא.

The Gemara explains why the proposed resolution must be rejected: **As with regard to a house, which is like a roofed enclosure, there is no dispute. And according to both Rabbi Yehuda and the Rabbis, a bird trapped into a closet, yes, it is considered trapped, while a bird into a house, no, it is not considered trapped.**

In one stoop – בתוך שחויא: The Rashba reads: *Shihiya*, meaning in one pause, i.e., that the relevant issue is not whether he can catch the animal by stooping once, but whether he is able to do so in one attempt, without having to rest in between.

הלכה מקבל – Halakha by inference that they disagree – דפליגי: The Gemara does not determine whether the first *tanna* and Rabban Shimon ben Gamliel disagree, or whether the latter comes merely to explain the words of the first *tanna*. The Rashba and the *Meiri* indicate that there is no dispute here at all. Others, e.g., the Maharshah, maintain there is a dispute, as according to them, Rabban Shimon ben Gamliel does not distinguish between enclosures based on size, but based on the difficulty of the capture; a quick and elusive animal may be difficult to catch even inside a small enclosure.

Many authorities discuss this issue as well as the implications of this disagreement with regard to fish. The Rambam does not appear to differentiate between fish on the one hand and animals and birds on the other, but many authorities (see Ra'avad and Rashba) offer several reasons for distinguishing between them. For example, the Maharshah holds that one should follow the approach of the Jerusalem Talmud, that the removal of fish from water is analogous to the prohibited labor of reaping, which consists of uprooting something from the source of its growth. Others differentiate between murky and clear waters, either because the former is to a certain extent similar to land, or because one cannot designate particular fish the day before in muddy waters (see *Rishon LeTziyyon*).

גמרא גמור ומורתא – Learn the lesson, let it be like a song – תהא: The *Meiri* understands this expression similarly to Rashi and many other commentators. However, he explains the essence of the expression to mean: A student should not be similar to one who is singing a song, who focuses on the tune and pays no attention to the content of the words. Rav Hai Gaon, however, seems to have had a different reading of the text, as he explains the phrase as a continuation of Rav Yosef's words: One need not ask questions that have no halakhic significance. It is enough for him to review his studies properly.

אמר רבה בר רב הונא הכא בצפור דרור עסקינן, שאינה מקבלת מרות. דתנא דבי רבי ישמעאל: למה נקרא שמה צפור דרור – שדרה בבית כבשדה.

Rabba bar Rav Huna said: Here, in the mishna, according to which a bird in a house is not considered trapped, we are dealing with a free bird, a sparrow, which does not accept authority. That bird is not intimidated and evades capture even in a house. **As the school of Rabbi Yishmael taught:** Why is it called a free [*dror*] bird? Because it dwells [*dara*] in a house as it does in a field, flittering from place to place. For this reason, it is not considered captured when it is inside a house. Therefore, the distinction between a roofed and an unroofed enclosure resolves the apparent contradiction between the mishna and the *Tosefta*.

השתא דאתית להכי, חיה אחיה נמי לא קשיא; הא בבית קטן, הא – בבית גדול.

The Gemara comments: **Now that you have arrived at this understanding**, that the difference between the rulings in the two sources is predicated on different circumstances and not on a tannaitic dispute, the apparent contradiction between the ruling with regard to an animal in the mishna and the ruling with regard to an animal in the *Tosefta* is also not difficult. This, the ruling in the mishna that permits apprehending the animal, is referring to a small enclosure, in which the animal cannot evade its pursuers and requires no further trapping. That, the ruling in the *Tosefta* that prohibits apprehending the animal, is referring to a large enclosure, from which the animal cannot escape, but it can still avoid being caught.^h

היכי דמי בית קטן היכי דמי בית גדול? אמר רב אשי: כל היכא דרהיט אבתרה ומטי לה בחד שחויא – בית קטן, ואיך – בית גדול. אי נמי: כל היכא דאיכא עוקצי עוקצי – בית גדול, ואיך – בית קטן. אי נמי: כל היכא דנפלי טולא דתלי אהדי – בית קטן, ואיך – בית גדול.

The Gemara asks: **What are the circumstances of a small enclosure, and what are the circumstances of a large enclosure?** Rav Ashi said: Any enclosure where one can run after an animal^h and reach it in one stoopⁿ is a small enclosure. And any other is a large enclosure. Or perhaps, any enclosure that has a series of corners in which the animal could hide and evade capture is a large enclosure, and any other is a small enclosure. Or perhaps, any enclosure where the shadows from the different walls fall upon each other, because the walls are close together, is a small enclosure. And any other, a larger area where the walls are further apart, is a large enclosure.

רבן שמעון בן גמליאל אמר לא כל הביבין שוין וכו'. אמר רב יוסף אמר רב יהודה אמר שמואל: הלכה פרבי שמעון בן גמליאל. אמר ליה אביי: הלכה מקבל דפליגי?

It was taught in the mishna: **Rabban Shimon ben Gamliel says:** Not all enclosures are identical. If the animal is inadequately trapped in the enclosure, it is prohibited for one to catch it; whereas if it is adequately trapped, he is permitted to do so. Rav Yosef said that Rav Yehuda said that Shmuel said: **The halakha is in accordance with the opinion of Rabban Shimon ben Gamliel.** Abaye said to Rav Yosef: If one rules that the *halakha* is in accordance with his opinion, does that mean by inference that the Rabbis disagree,ⁿ or perhaps there is no dispute and everyone accepts the opinion of Rabban Shimon ben Gamliel?

אמר ליה: ומאי נפקא לך מינה? אמר ליה: גמרא גמור ומורתא תהא?!

Rav Yosef said to him: **And what difference is there to you** whether or not the Rabbis disagree? In either case the *halakha* is in accordance with the opinion of Rabban Shimon ben Gamliel. Why then does it matter whether or not the issue was in dispute? Abaye said to him, invoking a folk expression with regard to one who learns without reaching understanding: Is it simply **learn the lesson; let it be like a song?**ⁿ In other words, is it sufficient to simply parrot the halakhic ruling? Rather, it is necessary to examine the issue to understand it even if it does not yield a practical halakhic difference.

HALAKHA

What is trapping – איך ציד: One who traps a bird or a deer is not considered having apprehended it unless he drove it into a house or into an enclosure in which it is caught. In the case of a sparrow, he is liable only if he drove it into a closet or a small cage. If the bird is not completely trapped, the offender is exempt, but the action is nevertheless prohibited. Accordingly, if a sparrow flies into the house, one may not shut the windows, unless this is necessary due to the cold. As for other animals and birds, it is prohibited in all cases, as it constitutes a biblically prohibited labor (*Mishna Berura*). One who removes fish from their place and puts them into a small container of water is considered as having

trapped them, whereas one who hunts a lion or some other beast is liable only if he drives it into a cage that can hold it. The *halakha* is in accordance with the opinion of the Rabbis, Rabban Shimon ben Gamliel, and Rabba bar Rav Huna (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 10:19; *Shulhan Arukh*, *Orah Hayyim* 316:1).

כל – Any enclosure where one can run after an animal, etc. – היכא דרהיט אבתרה וכו': Any enclosure whose walls are so close together that their shadows overlap in the middle, or where one can catch the animal in a single stoop, is considered a small enclosure. If one drove an animal into such an enclosure, he is liable (Rambam *Sefer Zemanim*, *Hilkhot Shabbat* 10:20).

Any animal whose trapping is not inadequate – כל שאינו – מְחוּסָר צִידָה: With regard to any creature whose present trapping is inadequate, and with regard to which one must say: Bring a trap so that we may catch it, one may not trap it or place food before it on a Festival unless he would incur a loss if he does not feed it (*Mishna Berura*, citing Rashba). Any animal whose present trapping is not inadequate may be caught and fed on a Festival, as the *halakha* is in accordance with the opinion of Rabban Shimon ben Gamliel (*Shulhan Arukh, Orach Hayyim 497:7*).

Trapping domestic birds – צִידַת עוֹפוֹת בַּיִת – One is permitted to catch geese, chickens, and doves that were raised for food, and one need not designate them on the day before the Festival; a God-fearing person, however, should designate the ones he wants beforehand (*Magen Avraham*, citing Maharshah). This applies to all domesticated birds that return to their coop every night and are fed by their owners. If they are not accustomed to their coop, they are treated like other animals and birds (*Magen Avraham; Shulhan Arukh, Orach Hayyim 497:6*).

NOTES

What are the circumstances of an animal whose trapping is inadequate – הֵיכִי דְמֵי מְחוּסָר צִידָה – According to Rashi, Shmuel's statement is identical to Rav Ashi's earlier definition of an enclosure, but the Rif and his commentators indicate that there is a difference between them and that the two measures are not the same.

And it is taught: One who traps geese... is exempt – וְתַנְיָא... is exempt – See *Tosafot*, who point out that with regard to the laws of Shabbat, exempt means one is not liable by Torah law, but it is nevertheless prohibited. Some explain that the question is based not only on the *baraita*, but on the observation that people do so on a regular basis *ab initio*, which seems to indicate that not only is one exempt, but it is even permitted to catch them (Rav Yitzhak Abuhav). The Maharshah explains that if one is merely exempt on Shabbat but still prohibited from doing so, one should be allowed to do so on a Festival *ab initio*, when labor for the sake of food preparation is permitted.

וְהַכֵּלָל כָּל הַמְחוּסָר צִידָה וְכוּ'. הֵיכִי דְמֵי מְחוּסָר צִידָה? אָמַר רַב יוֹסֵף אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: כָּל שְׂאוֹמֵר "הֵבֵא מְצוּדָה וְנִצְוֵדנָה".

אָמַר לֵיהּ אַבְי: וְהָא אָוּוּן וְתַרְנַגּוּלִין, שְׂאוֹמְרִים "הֵבֵא מְצוּדָה וְנִצְוֵדנָה", וְתַנְיָא: הֲצֵד אָוּוּן וְתַרְנַגּוּלִין וְיוֹמֵי הַרְדִּיקָאוֹת – פְּטוּר!

אָמַר רַבָּה בַר רַב הוּנָא אָמַר שְׁמוּאֵל: הֲלָלוּ בְּאֵין לְכַלּוֹבֵן לְעֶרֶב, וְהֲלָלוּ אֵין בְּאֵין לְכַלּוֹבֵן לְעֶרֶב.

וְהָרִי יוֹנֵי שׁוֹבֵךְ וְיוֹנֵי עֲלִיָּה, דְּבָאֵין לְכַלּוֹבֵן לְעֶרֶב. וְתַנְיָא: הֲצֵד יוֹנֵי שׁוֹבֵךְ וְיוֹנֵי עֲלִיָּה, וְצִפְרִים שְׁקֵנְנוּ בְּטַפְיָחִין בְּבִירוֹת – חַיִּיב.

אֵלָּא אָמַר רַבָּה בַר רַב הוּנָא אָמַר שְׁמוּאֵל: הֲלָלוּ בְּאֵין לְכַלּוֹבֵן לְעֶרֶב וּמְזוּנֹתֵן עֲלֵיךְ, וְהֲלָלוּ בְּאֵין לְכַלּוֹבֵן לְעֶרֶב וְאֵין מְזוּנֹתֵן עֲלֵיךְ.

רַב מַרִּי אָמַר: הֵנּוּ עֲבִידֵי לְרַבּוּי וְהֵנּוּ לֹא עֲבִידֵי לְרַבּוּי. כּוֹלְהוּ נִמְי עֲבִידֵי לְרַבּוּי. לְכַלּוֹבֵן קְאָמְרִינֵן דְּעֲבִידֵי לְרַבּוּי.

It was further taught in the mishna: **This is the principle: Any animal inside such an enclosure whose trapping is inadequate may not be caught and removed from there on a Festival, whereas any animal whose trapping is not inadequate^H may be apprehended and removed from there.** The Gemara asks: **What are the circumstances of an animal whose trapping is inadequate?**^N Rav Yosef said that Rav Yehuda said that Shmuel said: **Any animal with regard to which one would say: Bring a trap so that we may catch it, as the animal cannot be apprehended without the aid of a trap.**

Abaye said to him: **But aren't geese and chickens that are loose in a courtyard creatures with regard to which one would say: Bring a trap so that we may catch it, as they freely roam about and evade capture? And nevertheless, it is taught in a baraita: One who traps geese, chickens, or domestic doves^B is exempt,^{NH} as they are considered already trapped.**

Rabba bar Rav Huna said that Shmuel said: There is a difference between the two cases: **These, the geese and chickens, enter their coop in the evening and use it as their fixed dwelling place and are therefore considered trapped, while these animals in the enclosure do not enter their coop in the evening and therefore flee from those trying to seize them.**

The Gemara challenges this argument: **But don't doves of a dovecote and doves of a loft enter their coop in the evening, and yet it is taught in a baraita: One who traps doves of a dovecote, doves of a loft, or birds that are nesting in pitchers^B in buildings is liable for their capture, although they enter their coop in the evening?**

Rather, Rabba bar Rav Huna said that Shmuel said: A distinction can be made as follows: **These, the geese and chickens, enter their coop in the evening, and providing them with their feed is your responsibility.** They are therefore accustomed to their owners and considered as trapped. **Whereas these, the doves of a dovecote and the other birds mentioned in the baraita, admittedly enter their coop in the evening, but feeding them is not your responsibility.**

Rav Mari said an alternative distinction: **These, the doves of a dovecote, are likely to flee from people, and therefore require trapping, while these, the geese, chickens, and domestic doves, are not likely to flee from them.** The Gemara asks: **All of them are also likely to flee when being pursued, even chickens.** The Gemara answers: **We meant to say that they are likely to flee to their coop.** In other words, even when they reach their coop they do not remain still but continue in their attempts to escape, and are therefore not considered trapped.

BACKGROUND

Domestic [*hardisa'ot*] doves – יוֹנֵי הַרְדִּיקָאוֹת – Most doves raised in Eretz Yisrael in the mishnaic and talmudic periods were only semi-domesticated. These doves, which were sometimes no more than wild doves accustomed to living proximity of humans, would nest in specially constructed places and were protected by their owners. They were not, however, fed by their owners, but went out to search for their own food. Only a unique breed of doves, of a relatively late period, was fully domesticated, in the sense that they were cared for and fed by their owners. These doves were called *hardisi* doves.

The Gemara itself (*Hullin 139b*) offers various explanations of the name. According to one view, they were named

after King Herod, based on the original version of his name, Herodes, as he imported this breed of domesticated dove. Alternatively, they are named for their place of origin, the island of Rhodes.

Nesting in pitchers [*tefhin*] – שְׁקִינֵי בְּטַפְיָחִין – *Tefhin* are vessels in the shape of small barrels with wide mouths, and it seems they were generally earthenware. They were used for drawing water and perhaps for cooking as well. Occasionally these vessels, possibly cracked ones, were placed in suitable locations in houses as nests for doves or other birds, whose owners would then appropriate their eggs or fledglings.

NOTES

מְצוּדוֹת חַיָּה וְעוֹף דְּגָיִם – מצודות חיה ועוף ודגים – Traps for animals, birds, and fish – Some note that fish is stated in the plural, while the first two terms are not, and explain that animal traps are generally designed to capture single creatures, whereas fish nets and traps are meant to pull in many fish at one time (Melekheth Shlomo and others).

אֵין רְצוֹנִי לְקַבֵּל הַיָּמֵנוּ – I do not wish to accept from him – Rabbeinu Yehonatan and the Meiri explain that he did not wish to accept the fish because he was stringent for himself, although it is permitted to do so according to the letter of the law.

HALAKHA

מְצוּדוֹת חַיָּה – Traps for animals – If an uncertainty exists whether or not an animal or bird was caught on a Festival, e.g., if a trap was set on the eve of the Festival and an animal was found caught in it on the Festival, the animal is prohibited on the Festival unless it is known that it had been caught before the Festival. The halakha is in accordance with the opinion of Rabbi Yehoshua, who renders the animal prohibited even in a case of uncertain trapping (Shulhan Arukh, Orah Hayyim 497:3).

MISHNA If traps for animals, birds, and fish^{NB} were set on the eve of a Festival, one may not take anything from them on the Festival, unless he knows that the animals found in the traps had already been caught on the eve of the Festival. And an incident is related where a certain gentile brought fish to Rabban Gamliel, and the latter said: The fish are permitted, but I do not wish to accept them from him,^N as I despise him.

GEMARA The Gemara raises a question about the story involving Rabban Gamliel. Was an incident cited above to contradict a previously stated halakha? The mishna first teaches that one may not eat an animal caught on a Festival, and then relates an incident in which Rabban Gamliel ruled that this is permitted. The Gemara answers: The mishna is incomplete; it is missing an important element, and it teaches the following: Even in a case where it is uncertain whether or not the animal was prepared before the Festival, as it is unclear whether it was caught today or on the previous day, it is prohibited; and Rabban Gamliel permits it. And an incident is also related where a certain gentile brought fish to Rabban Gamliel, and the latter said: The fish are permitted, but I do not wish to accept them from him.

Rav Yehuda said that Shmuel said: The halakha is not in accordance with the opinion of Rabban Gamliel. Some teach this halakhic ruling with regard to this baraita, as it is taught: With regard to something about which an uncertainty exists whether or not it was prepared before the Festival, Rabban Gamliel permits it, and Rabbi Yehoshua prohibits it.^H Rav Yehuda said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Yehoshua. And others teach it in reference to this baraita, as it is taught:

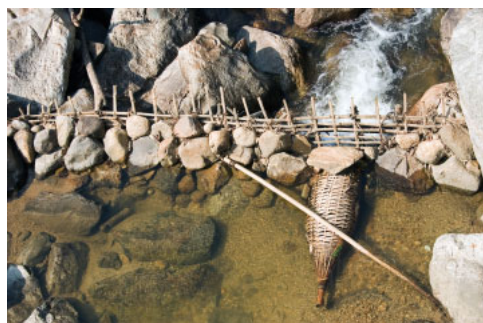
מְתַנִּי מְצוּדוֹת חַיָּה וְעוֹף וְדָגִים שֶׁשָּׂאָן מֵעֶרֶב יוֹם טוֹב – לא יטול מהן ביום טוב, אלא אם כן יודע שנצודו מערב יום טוב. ומעשה בגוי אחד שהביא דגים לרבן גמליאל, ואמר: מותרין הן, אלא שאין רצוני לקבל הימנו.

גמ' מעשה לסתור? תסורי מחסרה והכי קתני: ספק מוכן – אסור, ורבן גמליאל מתיר. ומעשה נמי בגוי אחד שהביא דגים לרבן גמליאל, ואמר: מותרין הן, אלא שאין רצוני לקבל הימנו.

אמר רב יהודה אמר שמואל: אין הלכה כרבן גמליאל. ואיכא דמתני לה אהא: דתנאי: ספק מוכן, רבן גמליאל מתיר ורבי יהושע אסור. אמר רב יהודה אמר שמואל: הלכה כרבי יהושע. ואיכא דמתני לה אהא: דתנאי:

BACKGROUND

Fish traps – מצודות דגים: Traditional fish traps are made of a long basket which is lowered into the water in a special manner. Once a fish swims unwittingly into the trap it cannot turn around, and consequently stays caught until the arrival of the fisherman.



Above: Traditional fish traps
Left: Traditional fish trap in a stream

NOTES

Pools [negarin] – נְגָרִין: Rashi explains that *negarin* generally means small water ditches. Here, however, it refers to small pens within which there were such ditches, and the animals drank from them in those enclosures. The Rashba explains simply that *negarin* means small enclosures, and it appears that Rabbeinu Hānanel's text actually reads *beivarim*. The *Arukh*, citing the *ge'onim*, reads this word as *nigrarin* and explains that it refers to devices that catch animals by snapping around their legs. These devices might be dragged [*nigrarin*] by large animals for a considerable distance.

He...found them out of order on the Festival – מְצָאָן
מְקוּלְקְלִין בְּיוֹם טוֹב: In the Jerusalem Talmud a distinction is made between snares placed in thickets, where animals are common, and those set in other places. In the former case, it can be assumed that the animals were caught soon after the snares were placed, and one may rely on this presumption.

HALAKHA

Uncertainty with regard to game in traps – סָפֵק צִיד – בְּמִצְוֹת
בְּמִצְוֹת: An animal about which there is uncertainty as to whether or not it was caught on a Festival is prohibited on the Festival. Therefore, if one found an animal in a trap on a Festival, it is prohibited unless he knows that it had been caught the previous day. If he found the trap out of order on the eve of the Festival, it may be presumed that the animal had been caught before the Festival began (*Shulhan Arukh, Orah Hayyim 497:3*).

שׁוֹחֲטִין מִן הַנְּגָרִין בְּיוֹם טוֹב, אֲבָל לֹא מִן הַרְשָׁתוֹת וּמִן הַמְּכַמּוֹרוֹת. רַבִּי שְׁמַעוֹן בֶּן אֱלֶעָזָר אוֹמֵר: בָּא וּמְצָאָן מְקוּלְקְלִין מִמֶּעֶרֶב יוֹם טוֹב – בְּיָדוֹעַ שְׁמַעְרַב יוֹם טוֹב נִצְוָדוּ, וּמוֹתְרִין. בָּא וּמְצָאָן מְקוּלְקְלִין בְּיוֹם טוֹב – בְּיָדוֹעַ שְׁבִיּוֹם טוֹב נִצְוָדוּ, וְאִסּוּרִין.

הָא גּוֹפֵה קִשְׂיָא; אֲמַרְתָּ, בָּא וּמְצָאָן מְקוּלְקְלִין מִמֶּעֶרֶב יוֹם טוֹב – בְּיָדוֹעַ שְׁמַעְרַב יוֹם טוֹב נִצְוָדוּ. טַעְמָא דְבָא וּמְצָאָן מְקוּלְקְלִין, הָא סְפִיקָא – אִסּוּרִין. אִימָא סִיפָא: בָּא וּמְצָאָן מְקוּלְקְלִין בְּיוֹם טוֹב – בְּיָדוֹעַ שְׁבִיּוֹם טוֹב נִצְוָדוּ, טַעְמָא דְבָא וּמְצָאָן מְקוּלְקְלִין, הָא סְפִיקָא – מִמֶּעֶרֶב יוֹם טוֹב נִצְוָדוּ וּמוֹתְרִין.

הֵכִי קָאָמַר: בָּא וּמְצָאָן מְקוּלְקְלִין מִמֶּעֶרֶב יוֹם טוֹב – בְּיָדוֹעַ שְׁמַעְרַב יוֹם טוֹב נִצְוָדוּ וּמוֹתְרִין, הָא סְפִיקָא – נִעֲשֶׂה כְּמִי שֶׁנִּצְוָדוּ בְּיוֹם טוֹב וְאִסּוּרִין.

אָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: הֲלָכָה כְּרַבִּי שְׁמַעוֹן בֶּן אֱלֶעָזָר.

One may slaughter animals from pens containing pools^N of drinking water on a Festival, but not from those found caught in nets or in traps,^B as they may have been caught on the Festival itself. Rabbi Shimon ben Elazar says: If he came and found the nets and traps out of order on the eve of the Festival, which indicates that an animal had been caught in them, then it is known that the animals were caught on the eve of the Festival, and they are therefore permitted. However, if he checked the nets and traps shortly before the onset of the Festival and found them intact, and he later came and found them out of order on the Festival,^N it is known that the animals were caught on the Festival, and they are therefore prohibited.

The Gemara poses a question: The *baraita* itself is difficult because it contains an internal contradiction between its clauses: You first said that if he came and found them out of order on the eve of the Festival, it is known that they were caught on the eve of the Festival. The reason is that he came and found them out of order, but if there is uncertainty, the animals are prohibited. But say now the latter clause of that same *baraita*: If he came and found them out of order on the Festival, it is known that they were caught on the Festival. The reason is that he came and found them out of order, but in a case of uncertainty, the assumption is that they were caught on the eve of the Festival and are permitted.

The Gemara explains: This is what the *baraita* is saying: If he came and found them out of order on the eve of the Festival, it is known that they were caught on the eve of the Festival, and they are permitted. But in a case of uncertainty, it is considered as if they were caught on the Festival, and they are prohibited.^H

Rav Yehuda said that Shmuel said: The *halakha* is in accordance with the opinion of Rabbi Shimon ben Elazar. All these versions of Shmuel's ruling are basically in agreement: In a case of uncertainty as to whether or not an item was prepared before the Festival, it is prohibited.

BACKGROUND

רְשָׁתוֹת וּמְכַמּוֹרוֹת – Nets and traps: These nets and traps, similar to the traps mentioned earlier, are not referring to nets that fishermen cast into water in order to catch fish. Rather, they are referring to nets that are fixed in the water and serve as traps, from which fish or birds cannot escape, or to nets placed in streams so that fish's heads will be caught in the netting. With regard to fish and birds, it is sometimes hard for the trapper to remove his catch immediately, and he waits until the morning. Where an animal or fish is trapped in a closed snare, however, the trap is put out of order by the creature's efforts to escape, and the trapper then knows that his prey has been caught.

The image depicts a sea turtle caught in a fish net and illustrates how deeply entangled sea creatures may become.



Sea turtle in a fish net

“ואמר מותרין הם” מותרין למאי? רב אמר: מותרין לקבל, ולוי אמר: מותרין באכילה.

אמר רב: לעולם אל ימנע אדם עצמו מבית המדרש אפילו שעה אחת. דאנא ולוי הוינן קמיה דרבי כי אמרה להא שמעתא. באורחא אמר: מותרין באכילה, בצפרא אמר: מותרין לקבל. אנא דהואי בי מדרשא – הדרי בני לוי דלא הוה בי מדרשא – לא הדרי ביה.

מיתבי: גוי שהביא דורון לישראל, אפילו דגים המפולמין ופירות בני יומן – מותרין. בשלמא למאן דאמר מותרין לקבל – שפיר, אלא למאן דאמר מותרין באכילה – פירות בני יומן מי שרו באכילה?

ולטעמיך פירות בני יומן מי שרו בטלטול? אלא בכורי דאדימי, ופירי דכבישי בירקא עסקינן. ואמאי קרי להו בני יומן – שהו בעין בני יומן.

אמר רב פפא: הלכתא: גוי שהביא דורון לישראל ביום טוב, אם יש מאותו המין במחוצר – אסור, ולערב נמי אסורין בכדי שיעשו.

ואם אין מאותו המין במחוצר, תוך התחום – מותר.

It was stated in the mishna that Rabban Gamliel said that the fish brought to him on the Festival by the gentile are permitted. The Gemara asks: Permitted for whatⁿ purpose? Rav said: They are permitted to be received and moved, but they may not be eaten. Levi said: They are even permitted to be eaten.

Rav said: A person should never prevent himself from attending the study hall for even one moment, and the proof is from this issue; as Levi and I were before Rabbi Yehuda HaNasi when he stated this *halakha*. In the evening he said: They are permitted to be eaten, but the following morning he said: They are permitted only to be received. I, who was in the study hall in the morning as well, retracted what I said, and taught the matter in accordance with Rabbi Yehuda HaNasi's second opinion. Levi, who was not in the study hall in the morning, did not retract his statement.

The Gemara raises an objection from the following *baraita*: If a gentile brought a gift [*doron*]¹ to a Jew on a Festival, even moist [*mefulamin*]¹ fishⁿ or produce from that same day, they are permitted. Granted, according to the one who said they are permitted to be received, it is well; the *halakha* is understandable. However, according to the one who said they are permitted to be eaten, is produce from that same day permitted to be eaten? If it was picked from the tree on that day, it is subject to the prohibition of *muktze*.

The Gemara responds with a counter-question: And according to your reasoning, is produce picked on that same day permitted to be moved? Why, then, is it obvious to you that the produce is permitted to be received? Rather, it must be explained that we are dealing with fish whose gills are still redⁿ and with produce that is preserved in greens, not with produce that was actually picked on that day. Why, then, is it called produce of that same day? Because it is fresh and similar to produce picked on that same day. Such produce is permitted not only to be moved, but even to be eaten.

Rav Pappa said that the *halakha* in this regard is as follows: In the case of a gentile who brought a gift to a Jewⁿ on a Festival,¹ if there is of that species still attached to a tree or the ground, it is prohibited to be eaten, as it may be assumed that the gentile picked it that same day. And in the evening as well, after the conclusion of the Festival, it is prohibited for the period of time needed for its preparation, i.e., the period of time necessary to detach it from the tree or the ground, as one may not derive benefit from a prohibited labor that was performed on a Festival on behalf of a Jew.

And if none of that species is still attached to the ground, then if the gift was brought from within the limit, i.e., the distance one may travel on a Festival, it is permitted, as no prohibited labor has been performed.

HALAKHA

A gift... on a Festival – ביום טוב... דורון: With regard to a gentile who brought a gift for a Jew on a Festival, or one who brought merchandise into a town inhabited mostly by Jews (*Mishna Berura*), the *halakha* is as follows: If there is produce of that species still attached to the ground, the produce brought by the gentile is prohibited to be eaten, even by one for whom it had not been brought, and one is likewise prohibited to move it. Even if one already recited a blessing and put it in his mouth, he may not swallow it (Rema). After the conclusion of the Festival, it is prohibited to be eaten for the period of time needed for its preparation, i.e., the time it takes to walk and retrieve it. According to the *Magen Avraham*, this measure of time applies if the gentile came by foot; however, if he came by carriage, one need wait only as long as it would take to arrive

by carriage. The maximum waiting time is one day. If he does not know from where the gentile brought the produce, he must wait for as long as it would take to bring it from outside the Festival limit.

With regard to the two Festival days observed in the Diaspora, if the gift was brought on the first day, it is permitted on the evening of the second day, after the time needed for its preparation has passed, according to Rashi and most authorities. Others rule that one must wait until the conclusion of the second day of the Festival (*Sefer Mitzvot Katan*). The custom is to act in accordance with the stringent opinion unless the gift is needed for one's guests on the Festival (Rema); the *Taz* permits it entirely in that case (*Shulhan Arukh, Orah Hayyim* 515:1).

Permitted for what – מותרין למאי – Rashi points out that this does not necessarily mean that the two *amora'im* accept this opinion as *halakha*; they merely come to explain Rabban Gamliel's statement. Some argue that the clarification of Rabban Gamliel's opinion also serves to explain the viewpoint of the first *tanna*, as, if one accepts Levi's approach that Rabban Gamliel permits them to be eaten, it can be assumed that the first *tanna* at least allows them to be moved. According to Rav, however, who holds that Rabban Gamliel permits them to be moved, the first *tanna* must prohibit this as well (*Rishon LeTziyyon*). With regard to the disagreement between Rav and Levi, it is possible to say that Rav understands the dispute between the first *tanna* and Rabban Gamliel as follows: The latter holds that an item that is prohibited to eat may be moved, whereas the first *tanna* maintains that anything that may not be eaten is considered *muktze* and therefore may not even be moved. Levi, on the other hand, holds that all agree that anything that may not be eaten may not even be moved, and therefore one who permits moving the item must allow it to be eaten as well, while the one who prohibits eating will prohibit moving as well (*Hatam Sofer*). See also the *Yam Shel Shlomo*, who approaches this problem from a different perspective.

Moist fish – דגים המפולמין – Some explain that moist fish are those on whose flesh the punctures of the hooks or forks used to catch them are clearly visible, indicating that the fish are fresh (*Meiri*).

Fish whose gills are red – כיורי דאדימי – Rabbi Aharon HaLevi explains that this refers to fish of a naturally red shade, which look fresh even if they were not caught that day.

A gentile who brought a gift to a Jew – לישראל: Several explanations have been suggested for this prohibition. Some explain that it is due to the prohibited labor involved, as although the gentile is not commanded to refrain from work, since he is performing this labor for a Jew there is concern that the latter might come to instruct him to do so, and this is prohibited by rabbinic law (Rabbi Aharon HaLevi). Rashi adds another reason: Produce attached to the ground is *muktze* on Shabbat and Festivals, even according to the lenient approach of Rabbi Shimon. See the later authorities, who note that Rashi explains this differently in various places. According to yet another explanation, attributed to Rabbeinu Meshulam, since it is an item whose prohibition will lapse after the Festival, it is prohibited on that day (see *Meiri*).

LANGUAGE

Gift [*doron*] – דורון: From the Greek δῶρον, *doron*, meaning a gift.

Moist [*mefulamin*] – מפולמין: Related to the Greek πηλωμα, *peloma*, meaning mud. The Sages adopted the root πηλο, *pelo*, in reference to wet objects covered in dew and mud.