

Because he creates – **מִשּׁוּם דְּקָא מוּלֵיד**: Some write that this is a light labor, for it is not a full-fledged act of work, but it is nevertheless prohibited because it involves the creation of something new (*Shitta Mekubbetzet*). Rid the Younger writes likewise, that this is not truly creating something new but is merely similar to that action. The Rambam offers an alternative reason: That they did not permit the lighting of a fire on a Festival because it is possible to keep one alight from the day before. The early authorities wonder at this statement (see *Mishne LaMelekh* and *Lehem Mishne*). Some say that this opinion is related to Rabbi Yehuda's view that one may perform acts that facilitate food preparation on a Festival only if they could not have been performed beforehand. In this case, fire could have been kindled on the eve of the Festival (see *Assukei Shematata*).

## HALAKHA

**Whitening tiles – לִיבּוּן רֵעִים**: On a Festival, one may not heat stones until they whiten. Some claim that it is prohibited to do so only with tiles, even if one does so in order to roast or cook on them because he thereby hardens them. Some say that it is prohibited only with new tiles (*Mishna Berura*). Others maintain that the prohibition applies even to old ones (*Magen Avraham; Taz*, based on Rambam; *Shulḥan Arukh, Oraḥ Hayyim* 508:1).

## HALAKHA

**Trampled or...crushed – דִּרוּסָה וְרֻצוּצָה**: If a fowl was trampled by a person's foot or by an animal, if it was thrown against a wall or some other hard surface, or if a heavy object fell on it, there is a concern that its limbs might have been crushed. If it does not stand up of its own accord, it may be slaughtered only after a twenty-four-hour waiting period. If one slaughtered it within this time, it is prohibited to eat it even if it was subsequently found not to be a *tereifa*. If it survives twenty-four hours, it is permitted to slaughter it, but only after it has been examined, in accordance with the opinion of Rabbi Elazar ben Antigonius (*Shulḥan Arukh, Yoreh De'a* 58:2–3).

**Slaughtering a crushed fowl on a Festival – שְׁחִיטַת הַרְצוּצָה**: If a fowl might have had its limbs crushed, it is permitted to slaughter it on a Festival, and there is no concern that it might be discovered to be a *tereifa*, in accordance with the opinion of the Rif and the Rambam, who maintain that this issue was resolved by Rabbi Zeira. Nowadays, the custom is to refrain from slaughtering on a Festival, but one may slaughter birds if necessary. One may be lenient and slaughter a bird if even if there is concern that its limbs might have been crushed, on condition that twenty-four hours have passed (*Mishna Berura*, citing *Hayyei Adam*; see *Magen Avraham; Shulḥan Arukh, Oraḥ Hayyim* 498:8).

“אֵין מוֹצִיאִין אֶת הָאוֹר” וכו'. מֵאֵי טַעְמָא – מִשּׁוּם דְּקָא מוּלֵיד בְּיוֹם טוֹב.

§ It is taught in the mishna that **one may not produce new fire** on a Festival in any manner. The Gemara asks: **What is the reason for this?** The Gemara explains: **Because he creates<sup>n</sup>** something new on a Festival. This is similar to an act of creation, and it is therefore prohibited.

“אֵין מְלַבְּנִין אֶת הָרַעְפִּים.” מֵאֵי קָא עֵבִיד? אָמַר רַבָּה בַּר בַּר חֲנָה אָמַר רַבִּי יוֹחָנָן: הֵכָא בְּרַעְפִּים חֲדָשִׁים עֲסֻקִינוּ מִפְּנֵי

§ The mishna states that **one may not whiten tiles<sup>h</sup>** by heating them, in order to roast food on them. The Gemara asks: **What does one thereby do;** since his intention is to prepare food, how does this differ from any other manner of roasting? **Rabba bar bar Ḥana** said that **Rabbi Yoḥanan** said: **Here we are dealing with new tiles**, and it is prohibited because

## Perek IV

## Daf 34 Amud a

שְׁצָרִיךְ לְבָדֵקוֹ, וְאָמְרֵי לָהּ: מִפְּנֵי שְׁצָרִיךְ לְחַסְמוֹ.

it is necessary to test them<sup>n</sup> to ensure that they do not burst when heated. If they are heated for the first time on a Festival, he will be thereby testing them, which is a prohibited labor. **And some say: Because it is necessary to harden them** by overheating them the first time to make them fit for use, which is considered preparing a vessel for use and is prohibited on a Festival.

תַּנּוּ הֵתָם דְּרָסָה, אוֹ שְׁטַרְפָּה בְּבוֹתָל, אוֹ שְׁרַצְצָתָהּ בְּהִמָּה, וּמִפְּרַכְסָת וְשִׁהְתָּהּ מֵעַת לַעַת וּשְׁחָטָה – כְּשָׂרָה. אָמַר רַבִּי אֱלֶעָזָר בַּר יֵנָאי מִשּׁוּם רַבִּי אֱלֶעָזָר בֶּן אֲנְטִיגוֹנוֹס: צְרִיכָה בְּדִיקָה.

In relation to the above, the Gemara cites the following teaching: **We learned in a mishna there: If one trampled fowl with his foot, or threw it against a wall, or if an animal crushed<sup>h</sup> it, and it is twitching but cannot stand; if the animal waited, i.e., remained alive, from the time of the injury until the same time twenty-four hours later, and he subsequently slaughtered it, it is kosher**, provided no other defect is found in it that would have caused it to die within twelve months, which would render it a *tereifa*.<sup>n</sup> **Rabbi Elazar bar Yannai said in the name of Rabbi Elazar ben Antigonius: It requires examination** after slaughtering, to make sure it does not have a defect.

בְּעֵא מִימֵיהּ רַבִּי יִרְמְיָהּ רַבִּי יִרְמְיָהּ מְרַבֵּי וְיָרָא: מַהוּ לְשַׁחְטָהּ בְּיוֹם טוֹב? מִי מַחֲזִיקִין רְעוּתָא בְּיוֹם טוֹב, אוֹ לֹא?

In relation to the same issue, **Rabbi Yirmeya inquired of Rabbi Zeira: What is the halakha with regard to slaughtering it on a Festival?<sup>h</sup> Do we assume on a Festival that it has a flaw or not?** In other words, may one rely on the assumption that a typical chicken has no defect? Or perhaps, since there is concern with regard to this particular bird and it requires examination, one should refrain from slaughtering it lest it turn out to be a *tereifa*. If so, he will have performed labor for no purpose.

## NOTES

**It is necessary to test them** – צְרִיךְ לְבָדֵקוֹ: This is the only reason cited in the Jerusalem Talmud, which distinguishes between tiles that have been examined and those that have not. *Tziyyun LeNefesh Hayya* attempts to relate this view to the Rambam's approach, which maintains that the major concern is neglect of the joy of the Festival.

**A tereifa due to crushed limbs** – טְרִיפָה שֶׁל רִסּוּק אֲבָרִים: The various kinds of *tereifa* are categorized into broad types of

injuries, most of which involve broken bones or torn or missing limbs. However, one type of *tereifa* occurs when the animal's limbs are crushed, although no particular bone has been found broken, for sometimes trampling or crushing is itself enough to kill an animal. Yet unlike other *tereifot*, the status of the animal in this case is determined after twenty-four hours rather than twelve months. If the fowl or animal lives for longer than this, it can be assumed that its limbs have not been crushed.

NOTES

Because it is necessary to harden them – מפני שצריך לְחַסְמֵן: Most of the Rambam's commentators maintain that in his view one may not even heat up old tiles, as they become harder the more they are used (see *Rishon LeTziyyon*). Some explain the reason for this prohibition is that one's use of tiles will lead people to suspect that he is mending a vessel that is not needed for the Festival (*Shitta Mekubbetzet*). The Sages therefore prohibited it even when one does so for the requirements of the Festival.

Stirs – מגים: It appears that Rashi maintains that stirring is considered part of the labor of cooking; the Rambam indicates the same. Others write that one who stirs is liable because mixing a dish causes parts of it to cook faster (Rabbeinu Peretz; Rashba).

New ovens and stoves – תנור וכירים חדשים: From one perspective, one can distinguish between new ovens and stoves on the one hand and tiles on the other: Since the former have already been built, it is not absolutely necessary to harden them for use. Tiles, however, are considered completed only after they have been hardened (Rashba). The difference between a regular oven and a large baker's one is that the latter is likely to crack due to its size, in addition to the fact that hardening it will complete its preparation (Rabbeinu Peretz).

One may not smear them with clay – אין טופלין אותם – בתרופות: Rashi explains that this is prohibited because it is the manner of craftsmen. Rabbi Aharon HaLevi maintains that it involves great effort, and since there are several other ways of achieving the same end, it is therefore considered a weekday activity.

HALAKHA

Several people cooking at once – רבים ששלו כֶּאֱחָד: If many people participated in one act of cooking on Shabbat, such as if one provided the fire, another the wood, a third placed the pot on the fire, while others poured the water, put the meat in the pot, and added spices, and a final person came and stirred the pot, they are all liable for cooking. According to the Ra'avad, this applies only to a new pot, for the one who placed it on the fire is considered to have mended the vessel, as explained by the Gemara here. However, if all these labors were performed before the fire was started, only those who placed the wood on the fire and stirred the pot are liable (Rambam *Sefer Zemanim, Hilkhot Shabbat* 9:4).

New ovens and stoves – תנור וכירים חדשים: It is permitted to kindle new ovens and stoves for the first time on a Festival, but one may not anoint them with oil or rub them with a rag in order to prepare them, nor may one pour cold water over them in order to harden them. However, if the ovens have overheated and it is necessary to cool them with cold water so that they can be used for baking, it is permitted to do so (Rambam *Sefer Zemanim, Hilkhot Yom Tov* 3:11).

Scalding and preparing meat – מליכה ומיקון בבשר: One may scald the head and feet of an animal on a Festival and singe them with fire or embers (*Magen Avraham*). However, one may not cut its hair with scissors nor treat it with lime or similar substances in order to remove the hair (*Shulhan Arukh, Orah Hayyim* 500:4).

אמר ליה: תנינא. אין מלבנין את הרעפים לעלות בהן. והוינן בה: מאי קא עביד? ואמר רבה בר בר חנה אמר רבי יוחנן: הָכָא בְרַעְפִּים חֲדָשִׁים עֲסָקִינָן, מִפְּנֵי שְׁצָרִיד לְבַדְקָן.

אמר ליה: אֲנִי מִפְּנֵי שְׁצָרִיד לְחַסְמֵן מְתַנְיֵן לָהּ.

תניא, אֶחָד מְבִיא אֶת הָאוּר, וְאֶחָד מְבִיא אֶת הָעֵצִים, וְאֶחָד שׁוֹפֵת אֶת הַקֶּדְרָה, וְאֶחָד מְבִיא אֶת הַמַּיִם, וְאֶחָד נוֹתֵן בְּתוֹכוֹ תְּבַלִּין, וְאֶחָד מְגִים – כּוֹלֵן חֵיבִין, וְהַתְּנִיא: אַחֲרוֹן חֵיב וְכוֹלֵן פְּטוּרִין! לֹא קִשְׂיָא: הָא – דְאֵינְתִי אוּר מְעִיקְרָא, הָא – דְאֵינְתִי אוּר לְבִסּוּף.

בְּשֵׁלְמָא כּוֹלְהוּ קָא עֲבָדֵי מְעֵשָׂה, אֶלְיָא שׁוֹפֵת אֶת הַקֶּדְרָה מֵאֵי קָא עֲבִיד? אָמַר רַבִּי שִׁמְעוֹן בֶּן לָקִישׁ: הָכָא בְּקֶדְרָה חֲדָשָׁה עֲסָקִינָן, וּמְשׁוּם לְבוֹן רַעְפִּים נִגְעוּ בָּהּ.

תנו רבנן: תנור וכירים חדשים – הרי הן כְּכֹל הַכֵּלִים הַנִּשְׁלָחִין בְּחֶזֶר, אֲבָל אֵין סָכִין אוֹתָם שְׁמֹן, וְאֵין טְשִׁין אוֹתָן בְּמַטְלִית וְאֵין מְפִיגִין אוֹתָן בְּצוּנָן כְּדֵי לְחַסְמֵן, וְאֵם בְּשִׁבִיל לְאֵפּוֹת – הֲרֵי זֶה מוֹתֵר.

תנו רבנן: מולגין את הראש ואת הרגלים ומזהבין אותן באור, אבל אין טופלין אותם בתרופות, ולא באדמה, ולא בקסיד, ואין גוזזין אותן במספרים.

He said to him in response: We already learned that one may not whiten tiles<sup>8</sup> in order to roast on them. And we discussed it: What does he thereby do? And Rabba bar bar Hana said that Rabbi Yohanan said: Here we are dealing with new tiles, and the Sages prohibited heating them because one first needs to test them, and they might crack when heated. If they were heated for the first time on a Festival and cracked, it would show that they were unfit for use, in which case heating them would have been an unnecessary labor. This indicates that one may not take a chance on a Festival with regard to something that might be flawed, and therefore a possible *tereifa* should be similarly prohibited.

He said to him: This is no proof; we learned that the reason for that *halakha* is because it is necessary to harden them<sup>N</sup> in order to make them into proper vessels. Therefore, there is no connection between making a vessel and conducting an examination. Consequently, there is no reason to prohibit the slaughter of such a chicken on a Festival.

It is taught in a *baraita*: It is possible for several people to perform a single act of cooking on Shabbat, and all will be liable. How so? One brings the fire, and one brings the wood, and one places the pot on the stove, and one brings the water for the pot, and one puts spices into the food, and one stirs<sup>N</sup> the pot; they are all liable for cooking.<sup>H</sup> The Gemara wonders at this: But wasn't it taught in a different *baraita* that the last one is liable and all the rest are exempt? The Gemara responds: This is not difficult. This case, where all are liable, is referring to a situation in which he brought fire at the outset, and therefore each of them performed part of the act of cooking; that case, where only the last one is liable, is referring to a situation in which he brought fire at the end. In that case, none of the earlier people performed any aspect of cooking at all, as the labor of cooking begins only from when fire is brought.

The Gemara asks: Granted, all of them performed an action that constitutes a prohibited labor, and they are therefore partners in a prohibited act and the desecration of Shabbat. But the one who places the pot on the stove, what prohibited labor has he performed? Rabbi Shimon ben Lakish said: Here we are dealing with a new pot, and due to whitening tiles they applied the same prohibition to it. This means that one is not liable for cooking the food in the pot but for strengthening the pot itself, as is the case with heating tiles.

**S** The Sages taught in the *Tosefta*: New ovens and stoves<sup>NH</sup> are similar to all vessels that may be carried in a courtyard on a Festival, as one can place items on them. However, one may not anoint them with oil, nor rub them with a rag, nor cool them with cold liquids to prevent them from overheating, as all these actions are considered preparing the vessel for use, which may not be done on a Festival. And if one did so in order to bake in the oven on the Festival itself, this is permitted.

**S** The Sages taught in the *Tosefta*: During a Festival one may scald the head and the feet of a slaughtered animal with hot water in order to remove the hairs from them, and one may singe them in fire for this purpose, but one may not smear them with clay,<sup>N</sup> nor earth, nor lime in order to remove the hairs because this involves great effort, and it appears as though he is processing the skin.<sup>H</sup> And one may not shear those hairs with scissors, as it appears as though he is performing the labor of shearing in an effort to obtain the hairs themselves.

BACKGROUND

Tiles [*re'afim*] – רעפים: These tiles are probably flat or slightly concave tablets, upon which they would bake cakes and *matzot*. In other places, tiles of this kind were used for covering roofs. It is likely that *ra'af*, the singular word for tile, is related to *retzef*, a row. It is possible that the term "a cake baked on hot stones [*ugat retzafim*]" (II Kings 19:6) is referring in the verse to a cake baked on such tiles.

ואין גוזזין את הירק בתספורת שלו, אבל מתקנני את הקונדס ואת העכביות ומסיקין ואופין בפורני, ומחמין חמין באנטיכי ואין אופין בפורני חדשה, שמא תפחת.

תנו רבנן: אין נופחין במפות, אבל נופחין בשפופרות. ואין מתקנני את השפוד ואין מחדדין אותו. תנו רבנן: אין מפצעין את הקנה לצלות בו מליח, אבל מפצעין את האגוז במטלית, ואין חוששין שמא תקרע.

Similarly, one may not trim the top of the leaves connected to the vegetable with its special shears,<sup>BN</sup> but one may prepare *kundas*<sup>BL</sup> and *akaviyot*, bitter vegetables that can be eaten only after extensive cooking, although this involves great effort.<sup>H</sup> And one may kindle fire and bake in a large baker's oven [*purnei*],<sup>HL</sup> and one may heat water in an *antikhi*, a kind of large urn, but one may not bake in a new baker's oven<sup>N</sup> lest it break. If the oven cracks when heated because it was not properly made, one will have performed unnecessary work on a Festival.

**S** The Sages taught similarly in the *Tosefta*: One may not blow a fire with bellows,<sup>H</sup> because this is the manner of a weekday activity, but one may blow a fire with a tube, in an unusual manner. And one may not mend a skewer nor sharpen it. The Sages further taught in the *Tosefta*: One may not break a reed in order to make a kind of skewer upon which to roast salted fish, but one may crack a nut covered with a rag,<sup>NH</sup> and there is no concern lest it tear, for even if this occurs, no prohibited labor has been performed.

#### BACKGROUND

The vegetable with its shears – הירק בתספורת שלו: It seems that an implement similar to the one depicted in the image below was used to cut a variety of objects, from the shearing of sheep to the trimming of vines and superfluous vegetable branches.

*Kundas* – קונדס: The *kundas*, which is sometimes also written as *kunras* or *kinras*, is probably the *Cynara scolymus*, the globe artichoke, a perennial plant from the Asteraceae family. This plant, which grows up to 1 m in height, has large, hairy leaves and a head of flowers that grow from its stems. These flowers are plucked before blossoming, and its buds can be eaten after cooking. Although this particular plant is cultivated, it is very similar to certain other edible wild species. The *gundelia* is perhaps a related species to the *kinras*. It is sometimes necessary to cut off the top of these cooked heads, as they can become prickly.



Ancient scissors



Above: Globe artichoke before blossoming

Left: Globe artichoke blossoming



#### NOTES

Trim...with...shears – בתספורת: Some explain that since one can cut in a different manner, cutting with shears is prohibited as a weekday activity (*Shitta Mekubbetzet*).

A new baker's oven – פורני חדשה: Rashi and other commentators explain that the main reason that baking in this oven is prohibited is because if the oven were to crack, one will have performed an unnecessary labor. The Rambam offers a different reason: If the oven cracks, it will spoil the bread and negatively affect one's joy on the Festival. Rid the Younger explains that the concern is that one might mend the oven, thereby performing a full-fledged prohibited labor.

One may crack a nut covered with a rag – האגוז במטלית: The *Meiri* explains that the nut is wrapped in a rag to prevent it from damaging his teeth. Others claim the rag enabled one to crack several nuts with one strike of a hammer (*Ran*). Rashi explains that this is permitted because it is a destructive act. However, many early authorities and later authorities write that it is permitted because one does not intend to perform the labor of tearing at all, and it is not even an inevitable result of his actions (see *Derush VeHiddush*).

#### HALAKHA

Preparing vegetables – תקון ירקות: On a Festival, it is prohibited to cut vegetables with shears that are generally used only for cutting objects attached to the ground. However, one may prepare vegetables such as *kundas* and *akaviyot*, although this involves much effort. Similarly, it is permitted to slice vegetables into very small pieces in the manner of grinding, and one may also salt several pieces if he intends to eat them during the day. Some rule that one should be stringent and prepare only for the present meal, and it is proper to follow this opinion (*Shulhan Arukh HaRav*; *Rema*; *Shulhan Arukh, Orach Hayyim* 510:6–7).

Baking in a large baker's oven – אפייה בפורני: It is permitted to bake on a Festival in a large oven that opens to the side, similar to modern ovens. One may not, however, use a new oven, lest it crack and break. One may heat water in pots and other vessels made for this purpose, including a large urn (*Shulhan Arukh, Orach Hayyim* 507:1).

One may not blow with bellows – אין נופחין במפות: It is prohibited to blow a fire with bellows on a Festival, but one may use a tube. The custom is to permit the use of a homeowner's bellows, if the fire is blown in an unusual manner, e.g., holding the bellows upside down (*Tosafot*). A craftsman's bellows may not be used even in an unusual fashion. In some places, there is a custom to use a homeowner's bellows in the regular manner. Where such bellows are unavailable, it is certainly permitted to wave a handheld fan over a fire (*Shulhan Arukh HaRav*; *Shulhan Arukh, Orach Hayyim* 502:1).

One may crack a nut covered with a rag – האגוז במטלית: It is permitted to crack nuts inside a rag on a Festival, for there is no concern lest the rag tear (*Shulhan Arukh, Orach Hayyim* 508:2).

#### LANGUAGE

*Kundas* – קונדס: It appears that *kinras* or *kunras* is the correct reading, probably from the Latin *Cynara cardunculus*, the globe artichoke.

A large baker's oven [*purnei*] – פורני: From the Latin furnace or from the Greek *φούρνος*, *fournos*, which mean oven.

מתני' ועוד אמר רבי אליעזר: עומד  
אדם על המוקצה

**MISHNA** And Rabbi Eliezer further stated<sup>N</sup> the following leniency: **A person may stand over objects in storage,<sup>N</sup> such as produce that he has for some reason previously set aside from use,**

**NOTES**

And Rabbi Eliezer further stated – ועוד אמר רבי אליעזר – As this statement of Rabbi Eliezer's is not a continuation of his previous teaching, Rashi is inclined to delete the word: Further, from the mishna. *Tosafot* explain the link between his two laws in that both are leniencies, and therefore the mishna connects them, although they are not consecutive. The *Shitta Mekubbetzet* and others write that the mishna only links the teachings because they are leniencies, for lenient rulings are considered more powerful statements. Rabbi Zerahya HaLevi explains that since

the issues discussed by the mishna between the two teachings are the related topics of the use and kindling of wood, it is as though there is no interruption between Rabbi Eliezer's words. Additionally, as Rabbi Eliezer himself agrees with the other teachings, it is viewed as one continuous statement (Ran).

**Storage [muktze]** – מוקצה: The *ge'onim* explain that the term *muktze* here is referring to a backyard used for drying fruit. The word is derived from *ketzitzta* and *kayitz*. It was mainly used to dry figs. The Rambam explains similarly.

Perek IV  
Daf 34 Amud b

**BACKGROUND**

**Sabbatical Year** – שביעית: The Sabbatical Year, the seventh and final year of the agricultural cycle, is known as *Shemitta*, literally, abandonment or release. The laws of the Sabbatical Year are based on Torah law (Leviticus 25:1–7; Deuteronomy 15:1–6), but most authorities maintain that the conditions for the applicability of the Torah commandment to observe the Sabbatical Year have lapsed and its present-day observance is based on rabbinic decree. During this year, all agricultural land must lie fallow. One is prohibited to work the land, except for what is necessary to keep existing crops alive. All produce that does grow is ownerless and must be left unguarded in the fields so that any creature, including wild animals and birds, can have ready access to it. Since the produce is ownerless, the requirement to tithe the harvest does not apply during this year.

**HALAKHA**

**Unless he marks** – עד שירשום: One who stands over *muktze* fruit on Shabbat eve in the seventh year must make a mark and say: From here to here I shall take. If he did not mark it, he may not take from the fruit, as stated by the Rabbis. However, some authorities rule in accordance with the opinion of Rabbi Eliezer in this case (Rabbeinu Yeruham; Rambam *Sefer Zemanim, Hilkhhot Yom Tov* 2:9).

**Children who hid figs on Shabbat eve** – תינוקות ששטמו תאנים שבת: If children hid fruit for Shabbat and forgot to separate tithes from it, they must tithe it after Shabbat is over. Only then may they eat the fruit (Rambam *Sefer Zera'im, Hilkhhot Ma'aser* 5:21).

**One who transfers untithed fruit** – המוליך פירות בלתי מתקנים: One who transfers fruit that has not been tithed from one place to another, even if he passes through houses or courtyards, does not render it obligated in tithes. One may eat a casual meal from it until he reaches his destination (Rambam *Sefer Zera'im, Hilkhhot Ma'aser* 4:11).

ערב שבת בשביעית, ואומר: מכאן  
אני אוכל למחר. והכמים אומרים: עד  
שירשום, ויאמר: מכאן ועד כאן.

גמ' תנן התם: תינוקות ששטמו תאנים  
מערב שבת, ושכחו ולא עשו, למוצאי  
שבת לא יאכלו אלא אם כן עשו.  
ותנן נמי: המעביר תאנים בחצר  
לקצות – בניו ובני ביתו אוכלין מהן  
עראי, ופטורים.

**on Shabbat eve during the Sabbatical Year,<sup>8</sup> during which no tithes are separated, which means one may take fruit on the following day without the need for any corrective measure, and say: From here, from these fruits, I will eat tomorrow. And the Rabbis say: He may not eat unless he marks<sup>11</sup> the pile of fruit the day before and explicitly says: From here to there I will take.<sup>11</sup>**

**GEMARA** We learned in a mishna there: **Children who hid figs for themselves in a field on Shabbat eve<sup>HN</sup> in order to eat them on Shabbat, and they forgot and did not separate tithes, not only are they prohibited from eating them on Shabbat, for eating on Shabbat is always considered a fixed meal that obligates the produce in tithes, but even after the conclusion of Shabbat, they may not eat until they have separated tithes. And we also learned in a mishna: One who transfers figs in his courtyard in order to make them into dry figs, his children and the members of his household may in the meantime partake of them in a casual manner, and they are exempt from tithes.<sup>11</sup> The fact that the fruit has reached his courtyard, as opposed to his house, is not enough to cause it to be liable for tithing.**

**NOTES**

**The opinions of Rabbi Eliezer and the Rabbis** – שיטות רבי – אליעזר והכמים: In the Jerusalem Talmud, an apparent contradiction is noted: Rabbi Eliezer was known to be a *Shamuti*, a follower of Beit Shammai; they maintain in the case of fledgling birds that it is not enough merely to state one's intentions, but one must actually pick up the birds. The Gemara there answers that *muktze* in the case of animals is more severe, and the Sages therefore required an action to designate the items before Shabbat.

*Tosafot* point out that this answer does not resolve the contradiction according to Beit Hillel. They answer that the latter would say that this *muktze* is more stringent, since one actively set the figs and raisins aside in order to dry them. Rashi relates the dispute between Rabbi Eliezer and the Rabbis to the issue of retroactive designation. According to this explanation, it appears that the *halakha* follows the opinion of Rabbi Eliezer, for the conclusion of the Rabbis is that there is retroactive designation. Several early authorities and later authorities indeed rule accordingly.

Many commentators, however, do not accept this reasoning at all and claim that the dispute concerns the basic question

of what kind of designation removes the status of *muktze* (see *Meiri*). If so, the distinction between doves and fruit must be based on another reason, e.g., the fact that in the case of doves one chooses particular creatures, whereas one does not choose specific pieces of fruit. It can be said that Beit Shammai prohibit doves lest one change his mind out of fear of ruining his dovecote, and that reason does not apply to fruit (Rabbi Aharon HaLevi). Alternatively, there is a concern that one might find that some of the fruit is not ripe, which means he will have handled it for no purpose (*Shitta Mekubbetzet; Meiri*).

**Children who hid figs on Shabbat eve** – תינוקות ששטמו תאנים מערב שבת: This was stated in order to teach the following novel idea: Although the intention of children is considered irrelevant in establishing the status of food, if their intention is made evident through their actions, the status of the food is considered established in that case as well. In the Jerusalem Talmud, it is stated that this applies only if the children hid the fruit near twilight, in which case it is clear that they were hiding it for Shabbat.

**גְּמַר מְלֵאכָה לְמַעֲשֵׂר** – The completion of work for tithes – According to Torah law, the obligation to separate tithes applies only after the produce has been brought from the threshing floor, meaning that the work performed on the produce to prepare it for human consumption has been entirely completed. Rabbi Aharon HaLevi explains at length that the issue here is the unfinished completion of work, and the Gemara is referring to edible food that still requires some work or other preparation.

**וְקָרְאתָ לְשַׁבַּת עוֹנֵג** – And call Shabbat a delight – Some explain that in the case of a courtyard, it all depends on the status of the fruits themselves, whether their work has been properly completed. With regard to Shabbat, however, the fact that it is called “a delight” shows that the status depends mainly on the person himself: If one plans to eat the fruits, they are considered finished, as their status is established in accordance with his intention (*Hatam Sofer*).

**Untithed produce...is prepared with regard to Shabbat – טָבֵל מוֹכֵן הוּא אֶצֶל שַׁבַּת** – The early authorities struggle to explain how this conclusion can be reached from the mishna (see Rashi and *Tosafot*). Some suggest a straightforward explanation: The Gemara discusses whether a statement of designation for Shabbat establishes the food as a fixed meal. It does not state simply that the designation has no effect, because untithed food is not fit to be eaten. From this it is clear that if one did tithe the food, the tithing is considered effective after the fact (*Simhat Yom Tov*).

בְּעָא מִיָּה רַבָּא מִרְבַּ נְחֻמֵּי: שַׁבַּת מַה שְׁתִּקְבַּע מוֹקְצָה לְמַעֲשֵׂר בְּדָבָר שְׁלֵא נִגְמְרָה מְלֵאכָתּוֹ? מִי אֲמַרִינן: בֵּינן דְּכִתְיִב “וְקָרְאתָ לְשַׁבַּת עוֹנֵג” – קִבְעָה, וְאִפְּלִי בְּדָבָר שְׁלֵא נִגְמְרָה מְלֵאכָתּוֹ, אוּ דְלִמָּא בְּדָבָר שֶׁנִּגְמְרָה מְלֵאכָתּוֹ – קִבְעָה, בְּדָבָר שְׁלֵא נִגְמְרָה מְלֵאכָתּוֹ – לֵא קִבְעָה?

Based on these two sources, Rava inquired of Rav Nahman: With regard to Shabbat, what is the *halakha* in terms of whether it establishes an obligation to tithe food that has been *muktze* on Shabbat? Specifically, in the case of an item whose labor has not been completed,<sup>N</sup> does the fact that the food is *muktze* on Shabbat give it the status of completely prepared food, or not? Do we say that since it is written: “And call Shabbat a delight”<sup>N</sup> (Isaiah 58:13), this implies that any food one eats on Shabbat is considered a delight and not a casual meal, and therefore Shabbat establishes an obligation to tithe, as if the food were fully completed and fit to be eaten as a fixed meal, even for an item that has not had its labor completed? Or perhaps Shabbat establishes an obligation to tithe an item whose labor is completed, but regarding an item whose labor is not completed it does not establish an obligation to tithe?<sup>H</sup>

אָמַר לֵיה: שַׁבַּת קוֹבַעַת בֵּין בְּדָבָר שֶׁנִּגְמְרָה מְלֵאכָתּוֹ, בֵּין בְּדָבָר שְׁלֵא נִגְמְרָה מְלֵאכָתּוֹ. אָמַר לֵיה: וְאִימָא שַׁבַּת דְּוִמְיָא דְחָצֵר, מַה חָצֵר – אִינְהָ קוֹבַעַת אֶלָּא בְּדָבָר שֶׁנִּגְמְרָה מְלֵאכָתּוֹ, אִף שַׁבַּת – לֵא תִקְבַּע אֶלָּא בְּדָבָר שֶׁנִּגְמְרָה מְלֵאכָתּוֹ. אָמַר לֵיה: לִימוּד עֲרוּךְ הוּא בִּידְיֵנו, שֶׁהַשַּׁבַּת קוֹבַעַת בֵּין בְּדָבָר שֶׁנִּגְמְרָה מְלֵאכָתּוֹ, בֵּין בְּדָבָר שְׁלֵא נִגְמְרָה מְלֵאכָתּוֹ.

Rav Nahman said to Rava: Shabbat establishes the obligation for tithes, both with regard to an item whose work is completed and things whose work is not completed. Rava said to Rav Nahman and challenged: But say that the law of Shabbat should be similar to that of a courtyard: Just as a courtyard establishes food placed inside it as a fixed meal with regard to tithes only when the work on an item is completed, so too, Shabbat should establish only an item whose work is completed as liable for tithing. Rav Nahman said to Rava: I did not say this based on my own logic, which can be countered by logic of your own. Rather, we have it as an ordered teaching that Shabbat establishes both things whose work is completed and things whose work is not completed.

אָמַר מַר זוּטְרָא בְרִיה דְּרַב נְחֻמֵּי: אִף אֲנִי נִמְי תִּנְנָא: וְעוּד אָמַר רַבִּי אֶלְיָעָזֵר: עוֹמֵד אָדָם עַל הַמוֹקְצָה עָרַב שַׁבַּת בְּשַׁבְּעֵית וְכוּ'. טַעֲמָא – דְּשַׁבְּעֵית, דְּלֵאוּ בְּרַ עֲשׂוּרֵי הוּא, הָא בְּשַׁאֲרֵי שְׁנֵי שַׁבּוּעֵי – הָכִי נִמְי דְּאָסוּר. מֵאִי טַעֲמָא – לֵא מִשּׁוּם דְּשַׁבַּת קִבְעָה?

Mar Zutra, son of Rav Nahman, said: We, too, have learned in the mishna: And Rabbi Eliezer further stated that a person may stand over objects in the storage area on Shabbat eve during the Sabbatical Year and say: I will eat from here and here. The reason is that it is fruit of the Sabbatical Year, with regard to which one is not obligated to separate tithes. However, if it occurred in the other years of the Sabbatical cycle, so too, you will say that it is prohibited to eat them without separating tithes. What is the reason for this? Is it not because Shabbat establishes them with regard to tithes, and consequently they not be eaten until tithes have been separated?

לֵא, שְׂאֵנִי הֵתֵם, בֵּין דְּאָמַר “מִכָּאן אֲנִי אוֹכֵל לְמָחָר” – קִבְעָה לֵיה עֲלוּיָה. אִי הָכִי מֵאִי אֲרִיָּא שַׁבַּת? אֲפִילוּ בְּחוּל נְמִי. הָא קָא מְשַׁמַּע לָן: דְּטָבֵל מוֹכֵן הוּא אֶצֶל שַׁבַּת, שְׂאֵם עֵבֶר וְתִקְנֵו – מִתּוֹקְנֵו.

The Gemara refutes this: This is no proof, for there it is different: Since he said: From here I will eat tomorrow, he has immediately established for himself a meal with them, by stating his intention to eat the food as it is. The Gemara asks: If so, why does the mishna mention particularly Shabbat? Even if one said so on a weekday the same should also apply. Since he has set them aside for his meal, they are considered finished and are liable to tithes. The Gemara answers: This comes to teach us the following: One should not conclude that untithed produce is inherently *muktze* because one may not separate the tithes and eat it; rather, it is considered prepared with regard to Shabbat,<sup>N</sup> in that if one transgressed the words of the Sages and corrected it by separating the tithes, it is considered corrected.<sup>H</sup>

#### HALAKHA

**כִּיצַד שַׁבַּת** – How Shabbat establishes the status of fruit – Even on Shabbat, only fruit whose work has been completed is considered established with regard to tithes. This ruling is in accordance with the opinion of Rabbi Yohanan later in the Gemara, as opposed to the opinion of Rav Nahman (Rambam *Sefer Zera'im, Hilkhot Ma'aser* 3:3).

**תִּיקוֹן פְּרִיּוֹת בְּשַׁבַּת** – Tithing produce on Shabbat – One who unwittingly separated *teruma* and tithes on Shabbat may eat the produce he has tithed. However, if he did so in willful disregard of the *halakha*, he may not eat the produce until after Shabbat. In any case, the produce is considered tithed (Rambam *Sefer Zemanim, Hilkhot Shabbat* 23:15).