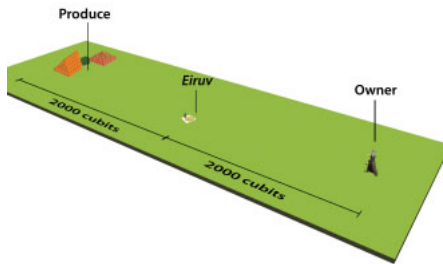


BACKGROUND

One who had produce in a different city – מי שהיו פירותיו – בעיר אחרת: בעיר אחרת:



Eiruv placed to enable the owner to reach his produce

מתני' מי שהיו פירותיו בעיר אחרת, וערבו בני אותה העיר להביא אצלו מפירותיו – לא יביאו לו, ואם ערב הוא – פירותיו במוהו.

MISHNA With regard to one who had produce in a different city^B beyond the Shabbat limit, and the residents of that city where the produce was located joined the Shabbat boundaries, enabling them to reach the owner's home on the Festival, and they wish to bring him some of his produce, they may not bring it to him. His produce is as his feet; since it is outside of his Shabbat limit, it may not be taken from its place. However, if the owner placed an eiruv to enable travel to that city, the legal status of his produce is like his status with regard to the Shabbat limit. People from that city who also placed an eiruv may bring the produce to him, since he himself may walk to the produce and take it.

Perek V

Daf 40 Amud a

NOTES

One who invited guests to visit him – זמן אצלו אורחים: The mishna uses the word guests in the plural to teach that even if many guests arrived from different places and various boundaries, it is permitted to transfer possession of all their gifts by means of one act of acquisition (Bigdei Yom Tov).

As the feet of the one with whom they were deposited – זמן אצלו אורחים: Some early authorities explain that this expression does not exclude the owner himself, but rather it means that it follows even the feet of the one with whom it was deposited. According to this approach, the object may be carried only to a place where both of them may walk (see Ran; Beit Yosef; Yam Shel Shlomo).

The question has been asked why Rav maintains that it follows the one with whom it is deposited, as certainly the owner does not intend to transfer ownership of his property to the keeper. One explanation is that since the keeper naturally has occasion to transfer the items from one place to another, it is in the owner's interest for his objects to be as the feet of the keeper (Simhat Yom Tov; see Penei Yehoshua).

HALAKHA

Giving portions to guests – נתינת מנות לאורחים: On a Festival, guests may not carry gifts from their host to places where the host may not walk, unless the host transfers ownership of these portions to the guests on the eve of the Festival by granting them acquisition by means of another person (Shulhan Arukh, Orach Hayyim 397:18).

As whose feet is a deposit – פקדון כרגלי מי: If one deposits produce with another who resides outside his Shabbat limit, without further specification, the produce is as the feet of the keeper. However, if the keeper designates a corner of his house for the owner's produce, it is as the feet of the owner, as the halakha follows Rav in his disputes with Shmuel in all matters of ritual law (Shulhan Arukh, Orach Hayyim 397:17).

Responsibility for a deposit in a courtyard – אחריות על פקדון שבחצר: If one brings his objects or animals into the courtyard of another, the latter does not bear responsibility for damage caused to the owner's object in his courtyard, even if the owner of the object brings them in with the permission of the owner of the yard. However, if the one with the courtyard accepts upon himself the responsibility of watching the items, he is liable for them, in accordance with the opinion of Rabbi Yehuda HaNasi (Shulhan Arukh, Hoshen Mishpat 393:1).

מי שזמן אצלו אורחים – לא יוליכו בידם מנות, אלא אם כן זכה להם מנותיהם מערב יום טוב.

With regard to one who invited guests to visit him^N from a town beyond his Shabbat limit, and they joined the Shabbat boundaries to enable them to reach his house, they may not carry in their hands back to their town any portions they received from him as gifts. These portions are as the feet of the host, since they belonged to him on the eve of the Festival. This is true unless he transferred ownership of their portions to them on the eve of the Festival, in which case the gifts may be carried wherever the recipients may walk.^H

גמ' אתמר, המפקיד פירות אצל חבירו, רב אמר: כרגלי מי שהפקידו לו, ושמואל אמר: כרגלי המפקיד. לימא רב ושמואל דאודו לטעמיהו, דתנן: אם הכניס ברשות – בעל החצר חייב, רבי אומר: לעולם אינו חייב עד שיקבל עליו בעל הבית לשמור.

GEMARA It is stated that amora'im disagreed with regard to one who deposits produce with another for safekeeping: In whose possession is the produce with regard to determining its place of rest over the Festival? Rav said: They are as the feet of the one with whom they were deposited.^{NH} And Shmuel said: They are as the feet of the object's owner. The Gemara suggests: Let us say that Rav and Shmuel follow their usual line of reasoning, as we learned in a mishna: If one brought in his produce or his ox to another's courtyard with his permission, the owner of the courtyard is liable for any damage caused to them. And Rabbi Yehuda HaNasi said: The homeowner is never liable for damages, unless the homeowner explicitly accepts upon himself the responsibility to watch them.^H

ואמר רב הונא אמר רב: הלכה כדברי חכמים. ושמואל אמר: הלכה כרבבי. לימא רב דאמר כרבנן, ושמואל דאמר כרבבי.

And Rav Huna said that Rav said: The halakha is in accordance with the statement of the Rabbis, who disagreed with Rabbi Yehuda HaNasi, and that Shmuel said: The halakha is in accordance with the opinion of Rabbi Yehuda HaNasi. If so, let us say that Rav spoke here in accordance with the opinion of the Rabbis, with the following reasoning: Just as when one gives permission to store something in his yard, that object is under his jurisdiction concerning monetary responsibility, so too, it is in his jurisdiction concerning the establishment of the Shabbat limit. And Shmuel spoke here in accordance with the opinion of Rabbi Yehuda HaNasi: When a homeowner gives permission to store something in his yard, the object is not in his jurisdiction, whether with regard to monetary responsibility or with regard to the Shabbat limit.

אמר לך רב: אנא דאמרי – אפילו לרבי. עד כאן לא קאמר רבי התם – אלא דבסתמא לא קביל עליה נטירותא, אבל הכא – הא קביל עליה נטירותא.

The Gemara rejects the comparison: Rav could have said to you: I said my statement in this case even in accordance with the opinion of Rabbi Yehuda HaNasi. For Rabbi Yehuda HaNasi stated his halakha only there, that an object brought into a courtyard is not considered in the possession of the homeowner with regard to monetary responsibility, because in the ordinary situation one who allows someone to bring items into his courtyard does not accept upon himself the responsibility of watching them. But here, the homeowner has accepted upon himself the responsibility of watching the produce, and consequently it is as his feet.

ואם ערב – However, if the owner placed an *eiruv*, etc. – The commentaries have asked why the Gemara does not ask the same question from the first part of the mishna (see *Tosafot Yeshanim*). Some suggest that the first case of the mishna can be explained to mean that the produce is as the feet of both the owner and the keeper (Maharam). Additionally, it is possible that the first part of the mishna means that since the produce lies beyond the Shabbat limit of the owner, he is not permitted to accept and to use it, even if it is brought to him (Ra'ah).

It is considered as one who designated a corner for him – כמי שיחד לו קרן זווית דמי: Similarly, anyone who arranges before the Festival to give something to another to take on the Festival, has thereby revealed that he does not want its resting place to be in his own possession but rather in that of the recipient (Ra'ah).

PERSONALITIES

Rav Hana bar Hanilai – רב חננא בר חנילאי: Rav Hana bar Hanilai was from the second generation of Babylonian *amora'im*. He was apparently the leader of a Jewish community very near the town of Sura. On several occasions, he is presented as learning Torah from Rav Huna, who in all probability was his primary teacher. He also discusses matters of *halakha* with Rav Hisda. It appears that Rav Hana was a wealthy man, as he was renowned for his charity and hospitality. Not only would he assist the poor, but he would do so in a manner that would allow the recipient to maintain his dignity and avoid shame.

Rav Huna – רב הונא: One of the great second-generation Babylonian *amora'im*, Rav Huna was most closely associated with his teacher, Rav. Rav Huna was of aristocratic descent, from the House of the Exilarchs. Despite that lineage, he lived in abject poverty for many years. Later in life, he became wealthy and lived comfortably, and he distributed his resources for the public good.

Rav Huna was the greatest of Rav's students, to the extent that Shmuel, Rav's colleague, used to treat him deferentially and direct questions to him. After Rav's death, Rav Huna became the head of the yeshiva of Sura and filled that position for about forty years. His prominence in Torah and his loftiness of character helped make the yeshiva of Sura the preeminent center of Torah for many centuries. Because of Rav Huna's extensive Torah knowledge, the *halakha* is almost invariably ruled in accordance with his opinion in disputes with all of his colleagues and contemporaries. The only exception is in civil law, where the rulings are in accordance with the opinion of Rav Nahman.

Rav Huna had many students, some of whom studied exclusively with him. Moreover, after Rav died, his younger students remained to study with Rav Huna. Rav Huna's son, Rabba bar Rav Huna, was one of the greatest Sages of the following generation.

ושמואל אמר: אנא דאמרי אפילו לרבנן; עד כאן לא קאמרי רבנן התם – אלא דניחא ליה לאיניש דניקום תוריה ברשותיה דבעל חצר, דאי מויק ליה לא מיניח. אבל הקא – מי ניחא ליה לאיניש דליקום פרייה ברשותיה דחבריה?

And similarly, Shmuel could have said: I said my statement here even in accordance with the opinion of the Rabbis, as the Rabbis stated their opinion only there, maintaining that the objects are considered in the jurisdiction of the homeowner, because it is a person's, i.e., the owner's, preference that his ox or other object be established in the jurisdiction of the owner of the courtyard, so that if his ox does damage to the homeowner's property the owner will not be liable. But here, is it a person's preference for his produce to be in another's jurisdiction with regard to the establishment of its Shabbat limit? It is certainly inconvenient for him to have his produce out of his Shabbat limit. Consequently, the two disputes between Rav and Shmuel are not necessarily connected.

תנן: ואם ערב הוא – פירותיו כמזהו. ואי אמרת ברגלי מי שהפקידו אצלו – כי ערב הוא מאי הוי? אמר רב הונא, אמרי בי רב: כגון שיחד לו קרן זווית.

The Gemara asks concerning Rav's opinion: We learned in the mishna: However, if the owner placed an *eiruv*,^N the legal status of his produce is like his status. And if you say that deposited produce is as the feet of the one with whom they were deposited, even if the owner of the produce placed an *eiruv*, what of it? The produce is under the jurisdiction of the people in the other town with whom it was deposited. It should be as their feet, not as the feet of the owner. Rav Huna said that the Sages of the school of Rav said in reply to this question: The mishna is dealing with a case where the keeper designated a corner of his house for the owner, thereby revealing his intention that the produce not be considered in his own jurisdiction but rather in that of the owner. Consequently, it remains as the feet of the owner.

תא שמע: מי שזמן אצלו אורחים – לא יוליכו בידם מנות, אלא אם כן זכה להם מנותיהם מערב יום טוב. ואי אמרת ברגלי מי שהפקידו אצלו – כי זכה להם על ידי אחר מאי הוי? הכי נמי, כגון שזכה להם על ידי אחר – כמי שיחד לו קרן זווית דמי.

The Gemara raises another challenge to Rav's opinion: Come and hear a different proof from the mishna: With regard to one who invited guests to visit him, they may not carry in their hands any portions they may have received back to their town, unless he transferred ownership of their portions to them on the eve of the Festival. And if you say that the *halakha* is that deposited items are as the feet of the one with whom they were deposited, even if he transferred ownership to them by means of another person taking possession on their behalf, what of it? The portions are in any event deposited in the house of the host, and they should be as his feet. The Gemara answers: Here too, since he transferred ownership to them by means of another person, it is considered as a case of one who designated a corner for him,^N so that the gifts are considered in the jurisdiction of the guests and may be carried wherever they may walk.

ואיבעית אימא: זכה שאני.

And if you wish, say instead that the entire case of transferring ownership is different because the host's specific intention is to transfer possession of the portions entirely to his guests. This means that the guests have certainly established the place of rest of these portions in their own jurisdiction and that the portions are as their feet.

רב חננא בר חנילאי תלא בשרא בעברא דדשא. אתא לקמיה דרב הונא, אמר ליה: אי את תלית – זיל שקיל, ואי אינהו תלו לך – לא תשקול.

The Gemara relates: Rav Hana bar Hanilai^P once hung meat on the bar of the door of his host's house, located outside his own town. He subsequently wondered if he was permitted to take the meat home with him, since he had made an *eiruv* enabling him to walk from his home to his host's home. He came before Rav Huna^P to ask his opinion. Rav Huna said to him: If you yourself hung the meat, go take it, but if your hosts hung it for you, you may not take it.

ואי איהו תלא מי שקיל? והא רב הונא תלמיד דרב הוה, ואמר רב: כרגלי מי שהפקידו אצלו. שאני עברא דדשא, דכמי שיחד לו קרן זווית דמי.

The Gemara questions this: And if he himself hung the meat, may he indeed take it? But wasn't Rav Huna a student of Rav, and Rav said that when an object is deposited in one's house it is as the feet of the one with whom it was deposited, which in this case is the host. The Gemara responds: Here it is different, as Rav Hana bar Hanilai hung the meat on the bar of the host's door, and this case is considered similar to a case of one who designated a corner for him. Since he was given a particular spot for the meat, it is considered his in all respects.

The status of animals and vessels is as the feet of the owner, etc. – הַבְּהֵמָה וְהַכֵּלִים כְּרַגְלֵי הַבְּעָלִים וְכוּ'. The early commentaries wonder what difficulty is presented by this mishna. One approach is to adopt the reading of Rabbeinu Tam, according to which the Gemara here cites instead the mishna that states: One who borrows a vessel from another on the eve of a Festival, it is as the feet of the borrower, even if the object is initially left in the house of the lender (Ra'ah; Rashba). The *Meiri* explains that the incident with Rav Hana was not considered a case of deposit at all, as everyone knew that his intention was to take the meat back with him on the Festival, so the regular *halakha* of animals and vessels being in the owner's domain should apply (see Rashi).

You diverted your attention and you may not take it – מְסַחֵת דַּעְתְּךָ וְלֹא תִשְׁקוּל. The simple explanation of this passage is that it is in accordance with Rav's opinion that meat that has been left unobserved in an unguarded place may not be eaten because it might have been mistakenly exchanged with prohibited meat. If Rav Hana had hung the meat himself, however, the Gemara states that he would have been permitted to eat it. Some explain that this is because if he hung the meat himself he would have noticed a distinguishing mark on it or would be able to identify it by sight recognition, eliminating the possibility that it might have been switched for another (*Meiri*). Others maintain, however, that this is a special kind of *muktze*: If one does not remember something and fails to care for it, the object thereby becomes *muktze* (see *Tal Torah*).

Domestic [*bayyatot*] – הַבְּיָתוֹת: The word *bayyatot* is usually understood as being derived from *bayyatiyot*, meaning those that belong to the house [*bayyit*]. Some explain that it is derived from the Aramaic root *b-y-t*, meaning to lodge. Therefore, *bayyatot* refers to animals that sleep in the town (*Meleket Shlomo*).

Domestic and desert animals – בְּיָתוֹת וּמִדְבָּרוֹת: The Gemara takes it for granted that the reason for the *halakha* in the mishna is *muktze*. The Jerusalem Talmud, however, indicates that this issue is also related to the prohibition of boundaries.

אָמַר לִיָּה רַב הַלֵּל לְרַב אֲשִׁי: וְאִי אֵינְהוּ תְלוּ לִיָּה לֹא שְׁקִיל? וְהָאָמַר שְׂמוּאֵל: שׁוֹר שֶׁל פֶּטֶם הָרִי הוּא כְּרַגְלֵי כָּל אָדָם.

אָמַר לִיָּה רַבִּינָא לְרַב אֲשִׁי: וְאִי אֵינְהוּ תְלוּ לִיָּה לֹא שְׁקִיל? וְהָאָמַר רַבָּה בַר חֲנָה חָנָה אָמַר רַבִּי יוֹחָנָן: הַלְכָה כְּרַבִּי דְּוֹסָא. אָמַר לִיָּה רַב אֲשִׁי לְרַב כְּהָנָא: וְאִי אֵינְהוּ תְלוּ לִיָּה לֹא שְׁקִיל? וְהָתֵנּוּ: הַבְּהֵמָה וְהַכֵּלִים כְּרַגְלֵי הַבְּעָלִים.

אֵלָּא, שְׂאֵנִי רַב חֲנָא בַר חֲנִילַי דְּגִבְרָא רַבָּה הוּא וְטָרִיד בְּשִׁמְעָתֵיהּ, וְהִכִּי קָאָמַר לִיָּה: אִי אֵת תְּלִיָּת – אֵת לְךָ סִימְנָא בְּגִזְוִיָּה וְלֹא מְסַחֵת דַּעְתְּךָ מִנֵּיהּ – זִיל שְׁקוּל, וְאִי אֵינְהוּ תְלוּ לְךָ – מְסַחֵת דַּעְתְּךָ, וְלֹא תִשְׁקוּל.

מתני' אין משקין ושוחטין את המדבריות, אבל משקין ושוחטין את הביתות. אלו הן ביתות – הלנות בעיר, מדבריות – הלנות באפר.

The Gemara raises a further objection with regard to this incident: Rav Hillel said to Rav Ashi: And if they hung the meat for him, may he indeed not take it? But didn't Shmuel say: An ox of a fatterer, who fattens oxen in order to sell them for meat, is as the feet of all people, i.e., it is as the feet of whoever buys it on the Festival. This shows that meat that is likely to be sold is not as the feet of its owner, but rather it follows the buyer, as the intention before the Festival is that it be for whoever happens to purchase it. Here too, the intention from the outset was that Rav Hana would take it over the course of the Festival.

Furthermore, Ravina said to Rav Ashi: And if the hosts hung the meat for him, may he indeed not take it? But didn't Rabba bar bar Hana say that Rabbi Yoḥanan says: The *halakha* is in accordance with the opinion of Rabbi Dosa, that in a town that has only one shepherd, an animal that will be given to that shepherd over the course of the Festival is as the feet of the shepherd, since it is certain that the animal will be transferred to him. Here too, since the meat was put aside for Rav Hana, he should be permitted to take it with him. There is a further difficulty: Rav Ashi said to Rav Kahana: And if they hung the meat for him, may he indeed not take it? But didn't we learn in a mishna: The status of animals and vessels is as the feet of their owner?^N The same should apply to meat that was hung for him; it should be as his feet.

Because of all these questions, the Gemara reinterprets the case of Rav Hana. Rather, the problem with the meat concerns a completely different matter, as the issue under consideration is not the establishment of its place of rest but the prohibition against eating meat that has been left unobserved, due to the concern that it might have been exchanged for prohibited meat. Rav Hana bar Hanilai is different from the average person, as he is a great man and occupied with his studies, and this is what Rav Huna said to him: If you yourself hung it, in which case you noticed some recognizable mark on the meat and your attention was not diverted from it, the meat is not forbidden for having been left unobserved, and therefore you may go and take it. However, if the hosts hung it for you, you thereby diverted your attention from it, and they too did not pay careful attention to it after hanging it on your behalf. In that case, it is considered meat that has been left unobserved, and you may therefore not take it.^N

MISHNA On a Festival one may not water or slaughter desert animals, which graze mainly outside the town, as they are considered *muktze*. However, one may water and slaughter domestic^N animals.^{NB} The mishna elaborates: These are considered domestic animals: Those that sleep in the city at night. Desert animals are those that sleep in the pasture and come into town only rarely.^H

HALAKHA

אלו בהמות – Which animals may be slaughtered on a Festival – שוחטים ביום טוב: Animals that go out to graze all day beyond the town boundary but sleep within it are considered prepared for use, and they may be taken and slaughtered on a Festival. But those that sleep outside the boundary may not be slaughtered if they are brought within it on a Festival; they are *muktze* because the town inhabitants do not have them in mind. All this applies

to animals owned by Jews, but if a gentile brings his animal to the slaughterhouse to be slaughtered, it is prohibited only if it is clear that it slept outside the boundary. If the gentile brings it without specifying, and the majority of the town's inhabitants are not Jewish, slaughtering it is permitted in all cases, as preparation is not required for the animal of a gentile (*Shulhan Arukh, Orah Hayyim* 498:3).

BACKGROUND

Desert and domestic animals – מדבריות וביתות: In the mishnaic period, large herds, especially those bred for meat, were generally found outside inhabited areas. Most animals, particularly sheep and goats, which may not be raised in populated regions of Eretz Yisrael (see *Bava Kamma* 60b), would graze in

the wilderness, in pasture located near the Judean desert and other wilderness areas in Eretz Yisrael. Shepherds spent most of the year away from settled areas. Some herds would never be brought into villages and cities, but would spend even the winter in the wilderness.

גמ' למה לי למימר משקין ושוהטין? מילתא אגב אזרחיה קא משמע לן, דלשקי אינש בהמתו והדר לשחוט, משום סרסא דמשכא.

GEMARA The Gemara asks: The mishna is coming to teach which animals are *muktze* and consequently may not be slaughtered and eaten on the Festival. **Why, then, do I need the mishna to say: One may water and slaughter?**^N What does watering have to do with the topic at hand? The Gemara explains: The *tanna* of the mishna teaches us a practical matter incidentally: That a person should first water his animal and only afterward slaughter it, due to the adhesion of the skin^N to the meat when this is not done. If one first waters the animal, it is easier to skin it after slaughtering it.

תנו רבנן: אלו הן מדבריות ואלו הן ביתיות? מדבריות – כל שיוצאות בפסח, ורועות באפר, ונכנסות ברביעה ראשונה. ואלו הן ביתיות – כל שיוצאות ורועות חוץ לתחום, ובאות ולנות בתוך התחום. רבי אומר: אלו ואלו ביתיות הן, אלא אלו הן מדבריות: כל שיוצאות ורועות באפר, ואין נכנסות לישוב לא בימות החמה ולא בימות הגשמים.

The Sages taught in a *baraita*: Which are desert animals, and which are domestic ones? Desert animals include all those that go out to pasture at Passover time and graze in the meadows day and night and enter the town again only at the first rainfall, at the start of the rainy season. And these are domestic animals: All that go out in the morning and graze outside the town's boundary but come and sleep within the boundary at night. Rabbi Yehuda HaNasi says: Both these and those are considered domestic animals and may be slaughtered on the Festival. Rather, these are desert animals that may not be slaughtered on the Festival: All those that go out and graze in the meadows and do not enter the settled area, neither in the summer nor in the rainy season.

ומי אית ליה לרבי מוקצה? והא בעא מיניה רבי שמעון בר רבי מרבי: פצעילי תמרה לרבי שמעון מהו? אמר ליה: אין מוקצה לרבי שמעון

The Gemara asks concerning Rabbi Yehuda HaNasi's opinion: And does Rabbi Yehuda HaNasi in general accept the concept of *muktze*? But didn't Rabbi Shimon, son of Rabbi Yehuda HaNasi, inquire of Rabbi Yehuda HaNasi: Unripe dates that are placed in a basket to ripen until they are edible, what is the *halakha* according to Rabbi Shimon ben Yoḥai? Are they considered *muktze* or not? He said to him in response: There is no recognition of the *halakha* of *muktze* according to Rabbi Shimon,

Why do I need the mishna to say: One may water and slaughter – למה לי למימר משקין ושוהטין? Some explain this question as follows: Granted, it is necessary to state that one may not water or slaughter those animals that are *muktze*, but why does the mishna need to say that one may water the permitted animals (see *Tziyyun LeNefesh Hayya*)? Others explain that since one may water any thirsty animal in one's possession, including a desert animal, and the mishna's statement that one may not water applies only if it is done for the purpose of slaughtering, mentioning watering appears irrelevant (see Rashba and Ran).

Adhesion of the skin – סרסא דמשכא: Rashi explains here that giving the animal water before slaughtering facilitates the stripping of its hide, and the Rambam explains similarly in tractate *Tamid*. However, in the Rambam's Commentary to the Mishna here, he explains, as do others, that it serves to detach some of the adhesions of the lobes of the lungs to each other. The liquid renders them unnoticeable, thereby removing one common cause of an animal being declared *tereifa*, one with an injury that will cause it to die within twelve months.

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except for the case of dried figs and raisins in the midst of the drying process alone. These are fruits that are fit to be eaten fresh and were deliberately removed from use to allow them to undergo a drying process, during which time they are inedible; they have therefore been actively removed from one's mind for the interim. Unripe dates, however, are unfit to be eaten fresh and become fit for eating only when they are ripe. Therefore, if one places unripe dates in a basket to ripen, they are never completely removed from his mind, not having been changed from an edible state to an inedible state, and are permitted. If so, desert animals, which are similarly never completely removed from one's mind, should also not be considered *muktze*. Why, then, does Rabbi Yehuda HaNasi indicate that they have the status of *muktze*?^N

NOTES

The contradiction between the statements of Rabbi Yehuda HaNasi – הסתיקה בשיטת רבי – The Maharsha asks: Since Rav Nahman differentiates in the beginning of the tractate between Festivals and Shabbat, perhaps Rabbi Yehuda HaNasi maintains that although *muktze* does apply to Festivals, it does not apply on Shabbat, a position that is in fact accepted by many as *halakha*. He answers that the

Gemara's difficulty is posed according to the other *amora'im*, who reject Rav Nahman's opinion. Many later commentaries suggest a variety of resolutions to this difficulty. Their basic approach is that it is unlikely that Rabbi Yehuda HaNasi himself would have accepted such a difference between Shabbat and the Festivals (see *Penei Yehoshua* and *Tziyyun LeNefesh Hayya*).

אִיבְעִית אִימָא: הָנִי נִמְי כְּגִוְגְרוֹת וְצִמּוּקִין דְּמִי. וְאִיבְעִית אִימָא: לְדַבְּרוּ דְרַבִּי שְׁמַעוֹן קְאָמַר, וְלִיהָ לָא סְבִירָא לִיהָ.

The Gemara suggests several resolutions: **If you wish, say that these desert animals are also considered similar to dried figs^N and raisins**, as by sending them outside the town the owner has actively removed them from use. **And if you wish, say** instead that the fact that Rabbi Yehuda HaNasi told his son that Rabbi Shimon does not accept the *halakha* of *muktze* except for the case of dried figs and raisins does not prove anything about his own opinion; **he stated this only in accordance with the statement of Rabbi Shimon, but he himself does not hold accordingly.**^H

וְאִיבְעִית אִימָא: לְדַבְּרֵיהֶם דְּרַבְּנֵי קְאָמַר לְהוּ: לְדִידֵי – אִין מוֹקְצָה, אֶלָּא לְדִידְכוּ – אוֹדוּ לִי מִיְהָת הֵיכָא דְיוֹצְאוֹת וְרוּעוֹת בְּפֶסַח וְנִבְנְסוֹת בְּרַבִּיעָה רַאשׁוֹנָה דְּבִיטוֹת הֵן. וְאָמְרוּ לִיהָ רַבְּנֵי: לָא, מְדַבְּרִיֹת הֵן.

And if you wish, say a different answer: He himself, like Rabbi Shimon, did not accept the concept of *muktze*, and when he spoke in the *baraita* he was speaking, for the sake of argument, **in accordance with the words of the Rabbis^N** who had spoken before him, saying to them, in effect: **According to my opinion, there is no *halakha* of *muktze* at all, in accordance with the opinion of Rabbi Shimon, and all animals may be slaughtered on the Festival. But even according to your approach, that there is a *halakha* of *muktze*, agree with me, in any event, that with regard to a case where they go out and graze on Passover and enter again at the first rainfall, they are considered domestic animals and should be permitted. But the Rabbis said to him: No, even those are desert animals.**^N

הדרן עלך משילין פירות
וסליקא מסכת ביצה

NOTES

הָנִי נִמְי כְּגִוְגְרוֹת – These are also considered similar to dried figs – Some write that according to this approach, the first *tanna* and Rabbi Yehuda HaNasi disagree with regard to the following issue: Are desert animals similar to dried figs and raisins in that anything whose arrival is not anticipated is considered actively rejected, or does this concept of rejection apply only to animals located too far away to arrive at all (*Ketav Sofer*)?

If you wish, say he was speaking in accordance with the words of the Rabbis – אִיבְעִית אִימָא לְדַבְּרֵיהֶם דְּרַבְּנֵי קְאָמַר לְהוּ – Although the Gemara here presents several options, it can be proven from several other sources that Rabbi Yehuda HaNasi himself accepts the

halakha of *muktze*. The second answer is therefore the most reasonable: Rabbi Yehuda HaNasi was merely speaking in accordance with Rabbi Shimon's approach (Ra'ah).

Desert and domestic animals – מְדַבְּרִיֹת וּבִיטוֹת – *Tziyyun LeNefesh Hayya* explains that although the last mishna of the tractate does not appear related to the subject of the rest of the chapter, which does not deal with the *halakhot* of *muktze*, it is placed here in order to teach the conclusion that the *halakha* of *muktze* does apply to Festivals. As the first mishna can be explained in different ways with regard to this issue, a summarizing *halakha* was stated at the end to this effect.

HALAKHA

Muktze on Shabbat and Festivals – מוֹקְצָה בְּשַׁבָּת וּבַחַג – Although *amora'im* as well as the major halakhic authorities debate this issue, the accepted conclusion is that the *halakha* follows Rabbi Shimon with regard to Shabbat, and therefore most of the *halakhot* of *muktze* do not apply. Consequently, anything edible and detached from the ground, including wheat sown in the ground that has yet to take root, or an egg lying under a chicken, may be handled. Similarly, one may handle dates placed in a basket to ripen, in accordance with the opinion of Rabbi Yehuda HaNasi. Only items such as

dried figs and raisins, which have been actively removed from their edible state, are considered *muktze*, as even Rabbi Shimon agrees in that case. Some say that the requirement of preparation does not apply to items in the possession of a gentile, and therefore even dried figs and raisins held by gentiles are permitted (Rema). With regard to Festivals, however, the *halakha* follows Rabbi Yehuda, and on a Festival one may not handle anything that is set aside due to a prohibition or because it lacks preparation (*Shulhan Arukh, Orah Hayyim* 310:2).