



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Chullin Daf Kuf Mem Aleph

MISHNA

- If the mother was sent away and came back before the eggs were taken, even if this happened 4 or 5 times, he is still chayuv to send her away again. This is based on the pasuk of "shaleyach tishalach es ha'eim".
- If someone says "I will take the mother and send away the chicks" he is still chayuv to send away the mother. This is based on the pasuk of "shaleyach tishalach es ha'eim".
- If after sending away the mother and taking the chicks he put them back into the nest and the mother came back and sat on the nest again, he is patur from sending her away again.

GEMARA

- One of the **Rabanan** asked **Rava**, maybe say that "shalayach" teaches it must be sent away once and "tishalach" teaches it must be done a second time, but never more than that? **Rava** said, "shalayach" teaches that it would have to be done even 100 times if necessary, and "tishalach" teaches that the mitzvah must be done not only if you want to take the mother for personal use, but rather even if you want to take it to use for a mitzvah (e.g. for a metzora).
 - **Q: R' Abba the son of R' Yosef bar Rava** said to **R' Kahana**, this suggests that if not for "tishalach" we would think that if the mother is needed for a mitzvah it would not have to be sent away. Why would we say that? The mitzvah of shiluach hakein is an assei and a lo saasei and an assei does not override another assei with a lo saasei!? **A:** The pasuk is needed for a case where the person took the mother, in which case the lo saasei was already violated. We would think that at this point it is one assei against another so we should not have to send away the mother. The pasuk therefore teaches that the mother must be sent away in that case as well.
 - **Q:** This answer doesn't work according to the view that holds that as long as the assei can still be done he has not violated the lo saasei. According to that view, as long as the mother is alive he has not yet violated the lo saasei. If so, we don't need a pasuk to teach that the other mitzvah would override the assei and lo saasei of shiluach hakein!? Also, according to **R' Yehuda** who says that "shalayach" means it must be sent before taking it, and once it is taken it can no longer be fixed by then sending it, once it is taken there is no longer an assei to send it!? **A:** Rather, **Mar bar R' Ashi** said, the pasuk is needed for when someone took the mother for the purpose of sending it away, in which case he is not over the lav and the assei still is in place, and he now has a mitzvah that he wants to use the bird for. That is where the pasuk is needed to teach that the assei does not push aside the assei of shiluach hakein.
 - **Q:** Why would we say that the assei of being metaher the metzora is stronger than the assei of shiluach hakein so that we need a pasuk to teach that it isn't? **A:** We have learned that shalom bayis is so great that even the Name of Hashem gets erased to try and bring shalom bayis between a man and his wife. If so, since a metzora is assur to his wife until he becomes tahor, we would say that making him tahor comes before the mitzvah of shiluach hakein. The pasuk teaches that it does not.

MISHNA

- If one takes the mother while she is on the chicks, **R' Yehuda** says he gets malkus and does not then send the mother away. The **Chachomim** say that he sends it away and does not get malkus.

- The general rule is, any lo saasei that has an assei that can rectify the lo saasei, does not make one chayuv in malkus if he is oiver on the lo saasei.

GEMARA

- **Q: R' Abba bar Mamal** asked, is the reason of **R' Yehuda** because he holds that a lav that is attached to an assei ("lav shenitik l'assei") does carry malkus or is it that although normally it does not carry malkus in this case the word "shalayach" teaches that it must only be sent before taking it? **A:** Maybe we can answer from a Braisa which says that **R' Yehuda** says a ganav and a gazlan can get malkus for stealing. This is so even though their lav is attached to an assei of returning the stolen items. We see that **R' Yehuda** says that such a lav does get malkus!
 - **R' Zeira** said this is not a valid proof, because it is not a Braisa taught by **R' Chiya and R' Oshaya**, and therefore may be a corrupt Braisa. The Braisa may in fact have said that he holds they are *not* subject to malkus.
 - **Q:** Maybe we can bring a proof from a Braisa taught by **R' Chiya and R' Oshaya** that says that **R' Yehuda** holds that if one went back and took shikcha or did not leave peya he is subject to malkus. Now, these lavim are attached to an assei of leaving them for the poor and yet we see that **R' Yehuda** says they are subject to malkus! **A:** It may be that he only holds that way there, because the pasuk says "taazov" which teaches that it must be left for them to begin with, not as a way of remedying the lav once it was violated.
 - **Ravina** said to **R' Ashi**, we can answer this from a Braisa regarding Korbon Pesach in which **R' Yehuda** clearly says that a lav that is attached to an assei is not subject to malkus. Therefore, regarding shiluach hakein, the reason he holds it is subject to malkus must be because of "shalayach". SHEMA MINAH!
 - **R' Idi** said to **R' Ashi**, we can show this from the Mishna as well, because **R' Yehuda** says he gets malkus and doesn't send it away. Now, if he held that he gets malkus because a lav attached to an assei carries a malkus penalty he should have said "he gets malkus and must send it away".
 - The Gemara says this is not a valid proof. The Mishna may mean that he does not become patur until he sends it away and gets malkus.
- **Q:** How far away must the mother be sent? **A: R' Yehuda** said, until she is no longer "under his hand" (in his immediate proximity).
- **Q:** Which limbs must be intact when she is sent away? **A: R' Huna** said her feet, and **R' Yehuda** said her wings. Each is based on a drasha of the pasuk.
 - There was a person who took the mother, clipped her wings, and then sent her away by foot. **R' Yehuda** gave him malkus and told him to wait until her wings grow back and send her away.
 - This was done according to the **Rabanan** of our Mishna, and the malkus he gave was D'Rabanan malkus.
- Someone went to **Rava** and asked what is the halacha regarding a "timah" bird found sitting on her chicks? **Rava** asked himself, does this person not know that there is the mitzvah of shiluach hakein for a kosher bird? He said to the person, maybe there is only one egg and you are asking whether it applies to one egg? The person said, that is exactly what he meant to ask. **Rava** said, the Mishna teaches that it does apply. **Rava** surrounded the bird with traps and then took it for himself. He was not afraid that people would say he gave a self-serving psak, because he did it in a way that people couldn't tell that he set the traps.
- **Q:** A Braisa says, doves of a dovecote and doves of an attic are subject to the mitzvah, but are assur to others as gezel for the sake of shalom. Now, if we hold of the ruling of **R' Yose bar R' Chanina** that a person's chatzer is koneh for him even without his knowledge, the person's chatzer should be koneh the eggs for him and it should be "prepared" and not subject to the mitzvah!? **A: Rav** said, when a majority of the egg emerges it is already subject to the mitzvah, but the owner is not koneh until it is fully out of the bird. When the Braisa says it is subject to the mitzvah it is referring to before it fully emerges.
 - **Q:** If it did not fully emerge why are they assur as gezel? **A:** The **Rabanan** said even taking the mother is gezel so as to preserve shalom, because the owner of that dovecote believes they are his. **A2:** We can say it is referring to an egg that has emerged in its majority, at which time the owner of the dovecote believes it is already his.

- Now that **R' Yehuda in the name of Rav** said that it is assur to be koneh eggs that a mother is sitting on, because the pasuk says send away the mother and only then take the eggs, we will also say that a person's chatzer cannot be koneh for him until the mother is sent away. A chatzer can't be koneh at a time when the person himself may not be koneh.
 - **Q:** If so, why is it assur as gezel for the sake of peace? If the mother was already sent away it is true gezel, and if the mother was not yet sent away it must be sent away before the eggs can be taken!? **A:** We are dealing with a katan who is not chayuv in the mitzvah of shiluach hakein.
 - **Q:** A katan is not subject to issurim for the sake of peace, so why should he have to return it to the owner? **A:** The Braisa means that the katan's father must return it to the owner for the sake of peace.