

**TALMUDIC METHODOLOGY**  
**By Rav Moshe Taragin**

**Shiur #11: Defining the *Melakha* of *Tzeida***

The *mishna* (*Shabbat* 106a) lists several cases of capturing animals that violate the *melakha* of *tzeida* (capturing). Unlike classic *melakhot*, which create a discernible change upon an item, *tzeida* doesn't create any change. The simple description of *tzeida* implies that no transformation occurs. By detaining an animal, the person has simply enabled further human utility. This is a human benefit, but in no way alters the subject of the animal. Why is this *melakha* forbidden if it deviates from the classic dynamics of *melekheth Shabbat*?

The *mishna* describes that capturing a bird is only forbidden if performed with a cage, but not within a larger structure. Adjusting this statement, the ensuing *gemara* states that the *mishna* is discussing a rowdy species of bird that rarely submits to human authority unless it is caged in extremely small confines. Typical birds, which are more submissive, may not be interned even in larger structures. This implies that *tzeida* is forbidden because it limits the **freedom** of the animal and thereby changes the state or condition of the captured animal. Accordingly, perhaps *tzeida* is indeed a **conventional** *melakha*, as it alters the state of freedom of the animal by imposing human control over it.

Said Otherwise: Is *tzeida* forbidden because it strips the animal's freedom (in which case it resembles a classic *melakha*)? Or is the mere facilitating of human utility prohibited even without effecting a change upon the animal. A potential *nafka mina* would surround situations in which the animal's freedom were curtailed but human accessibility was not enhanced. Rashi (*Chagiga* 11a) defines the Biblically listed rodent of *chomet* as a snail. Since *tzeida* is forbidden for all Biblically listed rodents (see *mishna*, *Shabbat* 107), Rashi evidently maintains that capturing a snail would violate *tzeida*. Similarly, Rashi (*Shabbat* 107) claims that seizing a worm would violate *tzeida*. Finally, Rashi (*Shabbat* 106b) insinuates that capturing a fatigued deer who can hardly move would be forbidden. Evidently, in Rashi's view, divesting animals of their freedom, even if the animal's movement is limited to begin with, constitutes *tzeida*. By contrast, the Tosafot Rid (in *Chagiga*) argues that detaining a snail would not entail *tzeida*. Evidently, in his view, *tzeida* is only violated when human accessibility has been attained. Since a snail (or worm) is **always** attainable - as it moves so slowly - no *tzeida* act has occurred if it is "detained" on *Shabbat*. Rashi and the Tosafot Rid debate whether *tzeida* is defined as denying animal freedom or as enabling human utility and accessibility.

In fact, this issue may have been debated by both the *Tanna'im* and *Amora'im*. R. Yehuda and the *Chakhamim* (*mishna, Shabbat 106a*) debate whether confining a deer to a larger enclosed area (*bibar*) would violate *tzeida*, as the freedom of the animal has been curtailed. R. Yehuda asserts that *tzeida* is violated only when the animal is confined in smaller, house-sized quarters. Presumably, R. Yehuda envisions *tzeida* as enabling human accessibility. Since a deer cannot be easily captured when contained in a large enclosure, no *tzeida* has occurred. By contrast, the *Chakhamim* acknowledge *tzeida* violation even when confining a deer to an enclosure as its freedom has been deprived. (The Bach assumes this logic in the debate.)

There are two debates among *Amora'im* that may also reflect the debate about defining *tzeida*. Rav Ashi (*Shabbat 106b*) describes an area in which it is possible to grab a deer with one sustained attempt, without resting in between. Placing a deer into this enclosure would constitute *tzeida* violation. This suggests that *tzeida* is defined as placing an animal in a situation that facilitates relatively simple human access. Intriguingly, and consistent with his earlier comments, Rashi redefines this space, writing that *tzeida* is only violated if the animal is confined to an extremely small yard that allows capture with **one thrust or grab**. Since Rashi maintains that *tzeida* entails denial of animal freedom, it is violated only by placing an animal in a small enclosure that allows immediate detainment.

By contrast to Rav Ashi, Shmuel (*Beitza 24a*) claims that *tzeida* is only violated by placing an animal in an enclosure that allows detainment without employing trapping mechanisms. Many *Rishonim* view this measurement as disagreeing with the earlier measurement stated in the name of Rav Ashi (see the *machloket* between the Ran and Rashba in *Beitza*). Shmuel maintains that even if the animal is relatively free, *tzeida* been effected, since humans can now more easily apprehend the deer without the use of traps. It is clear that Shmuel defines *tzeida* very differently – as enabling human availability, even if it has relatively little impact upon the animal!

Finally, Elazar ben Mehavai (*Shabbat 106b*) claims that grabbing locusts during a massive swarm would not entail a *tzeida* violation. The apprehension of these swarming locusts is too “easy.” Simply by sweeping a net, or even your hand, you are bound to seize a few locusts. This resembles the case of the snails and worms, which are easily accessible **before** an act of *tzeida* and whose detainment therefore does not constitute *tzeida*. Human accessibility has not been **advanced** through the *tzeida* act.

Having defined *tzeida* as the removal of animal freedom, Rashi is left with two options in addressing Elazar ben Mehavai's position. He could claim that this is a minority opinion (as is implicit in the *gemara*). Elazar ben Mehavai did indeed define *tzeida* as acquiring human accessibility, and by extension exempted catching swarming locusts because they were always accessible. However, the *Chakhamim* claim (as does Rashi) that *tzeida* is violated any time animal movement is eliminated, and that capturing swarming locusts therefore entails *tzeida*.

Alternatively, Rashi may maintain that the concentration of swarming locusts prevents already “free-movement” by the locusts. This limitation may also be chemical and instinctive, and not just spatial. When locusts swarm, they are being driven to a common trajectory and movement by powerful instinct, and not simply by promise of readily available food. Since they aren’t “free” to determine their path, they do not enjoy freedom, and their capture therefore is not a *tzeida* violation.

The aforementioned cases describe situations in which freedom was removed but accessibility was not achieved, because it already pre-existed the *tzeida* (as in the case of slow-moving animals or swarming locusts). A related case involves a scenario in which freedom is limited but accessibility is not achieved because the animal can quickly flee. The *Sefer Ha-Terumot* (cited by the *Shibbalei HaLeket* 125) prohibits closing a box that contains flies. Arguing with the *Terumot*, the Tur claims that since the flies cannot be easily grabbed (as they will escape when the box is open), *tzeida* has not been violated. It is evident that the *Terumot* defined *tzeida* as denying freedom, whereas the Tur defined it as enabling human utility.

Another interesting exception to *tzeida* relates to birds that present predictable migratory patterns and are dependent upon humans for their food. The *gemara* in *Beitza* (24a) asserts that detaining these birds would not violate *tzeida*. The Tosafot Rid claims that since these birds can be “fully” controlled, their apprehension does not constitute *tzeida*. At night, they return to their coops, and even during the day they are forced to return for food. Since humans have continuous access, seizing them does not violate *tzeida*. This is consistent with the Tosafot Rid’s position exempting worms and snails from *tzeida*. If *tzeida* entails creating human accessibility, it does not apply when that accessibility pre-exists. For slow-moving animals, it exists because of their pace, and for these birds because of their behavioral patterns.

The Ran in *Beitza* explains this exception very differently. Since these birds return to sleep and are fed by humans, they are effectively **domesticated**, and their capture thus does not entail *tzeida*. Since *tzeida* entails imposing will upon animals, it would not apply to domesticated animals that already have embraced human authority. In theory, even if a domesticated animal’s movement were restricted, *tzeida* might not apply, since the restriction of movement does not reflect a new imposition of will on a broader scale. Domesticated animals have already submitted to human control and their capture does not represent imposition of human authority. By describing *tzeida* in this fashion, the Ran appears to agree that *tzeida* entails imposing human will on animals, rather than enabling human accessibility.

Finally, this question may help explain an interesting exception to *tzeida* – animals that are not typically hunted/captured (*ein be-mino nitzod*). This issue was debated by R. Meir and the *Chakhamim* (*Shabbat* 106b), as well as by R. Yehoshua and R. Eliezer (*Shabbat* 107b). On the surface, the exemption for animals that are not typically captured seems odd. The Avnei Nezer (189) claims that *tzeida* is the acquisition of human utility, and not the

imposition of will upon the animal by restricting movement. If humans do not **typically** capture this animal, **conventional** human utility has not been enabled and no *tzeida* is violated. If *tzeida* consisted of imposing will upon an animal, it would make little difference from the animal's perspective whether humans typically capture it. Defining *tzeida* from a human vantage point and based on human norms can best be understood by defining *tzeida* as a process that yields (classic) human accessibility.