

**Daf Hashvuah Gemara and Tosfos Beitza Daf 24**  
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**Daf 24a**

The Gemara asks a contradiction to our Mishna from the following Braisa; you can't capture wild animals and fowls from their cages, and you can't give them food. This is a contradiction for both wild animals and fowl.

The Gemara answers: I understand how we can reconcile the contradictions by wild animals, we can say that one is according to the Rabanan and one is according to R' Yehuda. As a Braisa says: R' Yehuda holds that if you chase a bird into a closet and a deer into a house, you're obligated to bring a Chatos. This infers that it's only considered captured in a house and not in a cage. However, the Rabanan say that a bird needs to be caught in a closet and a deer in a garden or courtyard or cage. However, how can we reconcile the contradiction about birds?

If you want to answers: we can differentiate between an uncovered cage (where the bird can fly out), and a covered cage (where it's trap). However, this can't be. After all, a house is comparable to a covered cage and still, both R' Yehuda and Rabanan hold that it's only considered captured in a closet, but not in a house.

Rabbah b. R' Huna answers: (when we say it's not considered captured in a house) refers to a certain 'Dror' bird, that never feels subdued. As R' Yishmael's Beis Medrish taught: why is it called a 'Dror' bird. (It comes from the term 'Dirah' which means dwelling), that it dwells in a house as well as it dwells in the fields. (I.e., it doesn't feel subdued in the house, and therefore, it's as hard to catch as if it would be in its natural habitat.)

Once we answered it that way, we can also reconcile the contradiction of wild animals (without coming on to a Tannaic argument): it's captured in a small cage and it's not captured in a big cage.

What's considered to be a small cage? R' Ashi says, if you can run after the animal and grab it in one swoop, that's a small cage. Anything else is a big cage. Alternatively, any cage that have crannies that the animal can escape to is a big cage, otherwise, it's a small cage. Alternatively, if it's narrow enough that the shade of one wall reaches the other wall, it's a small cage. Otherwise, it's a big cage.

**Tosfos points out that there must be a standard height for the walls of cages, (or else we wouldn't be able to figure out how narrow it must be).**

**New Sugya**

R' Yosef quotes R' Yehuda who said in the name of Shmuel: the Halacha is like R' Shimon b Gamliel (who differentiates between the sizes of the animals' cages whether they're considered captured or not). Abaya asked: by saying "the Halacha is like him" implies that there are those who argue with him, (and we just said that the Tanna Kama only considered it captured in a small cage).

R' Yosef answered: what difference does it make? (After all, if no one argues, of course the Halacha is like him.)

Abaya answered back: (it's like you tell an imbecile) learn everything (whether it's true or not) so you

can make a nice song out of it.

## **New Sugya**

R' Shimon b. Gamliel's rule: whatever "lacks being captured" is forbidden to take, and it's only permitted if it "doesn't lack being captured." The Gemara asks: what's considered as "lacks being captured?" Shmuel answers: anything that you would request a trap to be able to trap it.

**Tosfos asks: didn't we already gave different requirements? (After all, we said if you can catch it in one swoop etc.)**

**Rashi answers: they're the same measurement (but phrased differently). However, Tosfos felt that this is too forced of an answer. After all, once we already explained what we consider to be a big cage, why does it need to repackage the statement?**

**Rather, Tosfos answers: originally, we explained the amount for domestic and wild animals. Here, we're explaining the amount for birds. Although in the above Gemara we explained that the bird cage that's permitted needs to be covered, still, we didn't explain the size how big it could be. According to this, it makes sense why we asked on this statement with a Braisa referring to geese and chickens.**

Abaya asked: but don't you need a trap to capture geese and chickens, and yet the Braisa says you're exempt from a Chatos if you captured them or Haradian doves.

**Tosfos asks: whenever a Braisa says that something is "exempt on Shabbos," it means exempt from bringing a Chatos, yet, it's rabbinically forbidden to do. So, why doesn't this fit into our Mishna that forbids to capture them? We can say it only mean it's rabbinically forbidden.**

**Tosfos answers: this fits well according to what I wrote in the Mishna; the reason why you can't give them food is because you might come to capture them. Therefore, we must say that the Mishna meant that it's forbidden from the Torah to capture them. After all, if it would only be rabbinically forbidden, why should we enact not to feed them? After all, we don't make enactments to keep other rabbinical enactments.**

**Alternatively, our Gemara relies on the following Gemara in Shabbos to complement their question: R' Gamliel says; all cages that the animal inside it is considered "lacks being captured," if you capture an animal from the wild into there, you're exempt, (since it's not considered captured yet). However, if you capture an animal that's in this cage, you're obligated in a Chatos (since you took it from a stage of not being captured to the stage of being captured). Therefore, our Gemara's question is as follows: if it's true that if you need a trap to trap it it's considered as if it's not trapped, and therefore, if you capture it from that situation it's a complete trapping and you're obligated in a Chatos, then, why are you exempt when you trap geese or chickens? After all, you also need a trap to trap them, so they're considered uncaptured, and you're now capturing them.**

Rabbah b. R' Huna in the name of Shmuel answered: those birds return to their nests at night (where they're easy to capture). However, the one's we forbid don't return to their (known) nests at night.

The Gemara asks: don't doves of the dove-coop and doves that dwell by the top floors of buildings return to their (known) nests at night, and the Braisa says you're obligated to bring a Chatos if you capture them or doves that make their homes in jugs built in tower walls.

Rather, Rabbah b. R' Huna in the name of Shmuel answered: the geese and chickens return to their nests and it's upon us to feed them, and the other birds, although they return to their nests at night, it's not upon us to feed them. (Therefore, those birds who we feed are considered domesticated, and they're not applicable to be trapped.)

R' Mari differentiates: the doves run away when approached by a human. The Gemara asks: all birds run away. Rather, you must say that the doves run (far) away to their nests, (and if you try to follow them there, they fly away someplace else).

### **New Sugya**

If you set up a trap Erev Yom Tov, you may not take from the trap (for perhaps it was trapped on Yom Tov and they'll be Muktzah) unless you know it was trapped the day before. A non-Jew once brought R' Gamliel a fish on Yom Tov (and he didn't accept it). He told people that the fish was permitted, but I didn't want to accept it from him (since he's my enemy).

The Gemara asks: this last story seems to contradict the original Halacha (since R' Gamliel would eat the fish, though he couldn't be sure it was trapped from before Yom Tov).

The Gemara answers: the Mishna is missing some words. This is what it should say: the Tanna Kama says that if it's Safeik prepared for Yom Tov, (and Safeik if it's Muktzah), it's prohibited. R' Gamliel permits it. There was a story like this, that a non-Jew once brought R' Gamliel a fish on Yom Tov (and he didn't accept it). He told people that the fish was permitted, but I didn't want to accept it from him (since he's my enemy).

R' Yehuda quotes Shmuel: the Halacha is not like R' Gamliel. Others have the version that it was said on the following Braisa: R' Gamliel permits Safeik prepared items and R' Yehoshua forbids them. R' Yehuda quotes Shmuel: the Halacha is like R' Yehoshua.

### **Daf 24b**

Another version, it was said on the following: the Tanna Kama says that you can Shecht animals that are in cages, but not those found in nets or traps (since it's possible that it was caught on Yom Tov, and we need to forbid them because of the Safeik). R' Shimon b. Elazar says, if you found (the rope that was tied down near you that's attached to the trap spread out in the forest) overturned (i.e., pulled out) on Erev Yom Tov, the animal is permitted. After all, it's a sign that it was caught before Yom Tov (and it's not Muktzah). However, if you found it was overturned on Yom Tov, it's prohibited. After all, it's known that it was trapped on Yom Tov (and it's definitely Muktzah).

The Gemara asks: these two statements are contradictory. First, you say that it's only permitted when you found it overturned before Yom Tov because you know it was trapped beforehand, but a Safeik is forbidden. Yet, at the end, you say; if he found it overturned on Yom Tov it's prohibited since you know it was trapped on Yom Tov, which implies that a Safeik is permitted. The Gemara answers: it should be read as follows, if you found it overturned before Yom Tov it's permitted since you know it was captured beforehand. However, if it was a Safeik, then it's as if it was definitely captured on Yom Tov and is prohibited. R' Yehuda quotes Shmuel that the Halacha is like R' Shimon b. Elazar.

### **New Sugya**

R' Gamliel says: the fish that the non-Jew presented him is permitted (because a Safeik Muktzah is

permitted). The Gemara asks: regarding what aspect are that fish permitted? Rav says he was only permitted to accept it (but it wouldn't be permitted to eat). Levi permitted it for eating too. Rav says; from this argument, we learn that you should never leave the Beis Medrish. After all, Levi and I were sitting before Rebbi at night when he said that he holds it's permitted to eat. In the morning (he retracted) and said that he only permits to accept it. I was there in the Beis Medrish, so I retracted too. However, Levi wasn't there, so he never retracted that opinion.

The Gemara asks: a Braisa says, when a non-Jew brings fresh fish and fruits picked that day, it's permitted. I understand this according to the opinion that you may accept it. (Although it's definitely Muktzah, but at least you don't eat it). However, how can we permit it to the opinion that it's permitted to eat?

The Gemara counter-asks: even to the opinion that it's permitted to accept, is it permitted to handle freshly picked fruit? (After all, it's Muktzah.)

The Gemara answers: (we don't refer to such freshly captured or picked items), but we refer to reddened fish (under the gills) and fruit wrapped in vegetation. (Where it's obvious that it's older, but it still keeps the appearance of being somewhat fresh.) It's only called "picked this day" because it's as fresh as if it was picked this day.

**Tosfos brings Rashi who explains that it's obvious that it was picked Erev Yom Tov, and yet, (for its fresh appearance) it's called "picked that day."**

**Tosfos argues. After all, it's simple that it's permitted, and everyone would agree to that. However, our Gemara implies that we're only permitting this to R' Gamliel who permits Safeik Muktzah.**

**Therefore, Tosfos explains: it's not obvious that it was picked before, but only a possibility. Therefore, it's only following R' Gamliel's opinion who permits if it's a Safeik that perhaps it's not Muktzah.**

R' Pappa says: the Halacha is: if a non-Jew brings a gift to a Jew on Yom Tov, if it's something that grows from the ground (and it's possible it was still attached to the ground coming into Yom Tov), it's forbidden to use, and it's forbidden after Yom Tov for the amount it takes to produce it.

**Tosfos brings Rashi who explains the amount of time it takes to harvest it, so that he shouldn't gain from a Melacha done on Yom Tov. (So, if you wait the amount it takes to do the actual Melacha, even if you don't wait extra time, i.e., the amount it takes to be carried to you, you didn't gain from the actual Melacha.)**

**Also, he writes: when we say it's permitted at night, it refers to the night after the first day of Yom Tov. After all, it's permitted on the second day whichever side of the Safeik you take. If the first day was truly weekday, so it was collected during the week, which is permitted. If it was the Yom Tov, then the second day is weekday and it's permitted. Of course, he's referring to a regular two day Yom Tov of the Diaspora (and not of Rosh Hashana). He brings a proof from an egg laid on the first day of Yom Tov is permitted on the second day. Also, from the case of a deer caught on the first day, is permitted to (Shecht) and eat on the second day. However, R' Yitzchok Halevi and the Goanim say that it's prohibited until after the second day Yom Tov. They explain "the amount it takes to do the Melacha" to mean; at a time where you can do the Melacha. Rashi concludes "however, R' Meir Maor Hagolah Paskins like me in a Teshuva and R' Klonymus of Rome, who is an expert in all of Shas, sent me a message that I'm correct."**

However, Ri asks on Rashi: if the reason not to partake in these fruits is not to have pleasure from a Melacha on Yom Tov, why do we allow right away eating from a stew that was accidentally cooked on Shabbos if you'll have pleasure from the Melacha?

Rather, The Ri explains: that's not the true reason, but the reason is in order that you shouldn't ask a non-Jew to harvest the fruit for you. Therefore, we need to wait until after the end of the second night of Yom Tov. After all, if we would permit after the first day, you'll ask a non-Jew to harvest it so that you'll be able to eat them on the second day. Therefore, we must explain it to mean that it's only permitted at a time that you can do the Melacha yourself.

Regarding Rashi's proof from the egg, there is no comparison. After all, the egg was produced by heaven (and not by a non-Jew). The same applies regarding the captured deer, that we refer to a case where they spread traps Erev Yom Tov (and not that a non-Jew captured it).

The rule is: anything Muktzta that comes into the world by itself, or even by the hands of a non-Jew, if he does the Melacha for himself or for another non-Jew, and then it's given to a Jew, is permitted on the second day of Yom Tov. However, if it's brought for a Jew, if it's something that could have been attached to the ground, it's forbidden until after the second day Yom Tov after the time it takes to do that Melacha. If it's not something that could be attached to the ground, then it's forbidden if it came from out of the T'chum and is permitted if it's within the T'chum.

The Ri explains: if it couldn't be attached to the ground, even if it came from out of T'chum, you don't need to wait the time it takes to bring it, since we're only stringent if he did an actual Melacha. We're lenient by T'chum the same way we're lenient to allow it for a Jew that it wasn't brought for, even on that day of Yom Tov.

R' Yehuda asks: we have a Gemara in Shabbos that, if a non-Jew brings flutes to play for a funeral from outside the T'chum, you can't use them until after Yom Tov, which the Gemara implies that it means after the time it takes to bring it.

Tosfos answers: since there is a more public display of carrying outside the T'chum, since everyone knows it was brought for this dead man's funeral, it's applicable for the rabbis to be more stringent in their decree. After all, the Gemara there differentiates between Melachos done for the need of the dead and for other reasons. As it says; if the non-Jew digs a grave for a dead person, you can't bury him there forever. This is despite, for other uses, you only need to wait for the time it takes to do the Melacha.

R' Shmuel from Eybra says: an object that there is a Safeik if it was brought from outside the T'chum is permitted. He brings a proof from a Gemara in Eiruvin regarding the water absorbed in the cloud, when we have a Safeik if it came from outside the T'chum, we permit the rain water. After all, it's a Safeik of a rabbinical prohibition which we permit.

R' Yehuda wants to prohibit fruits that could have been attached to the ground (until the time it takes to do the Melacha) even if it the non-Jew brought it for himself or for another non-Jew. However, Tosfos rejects this. After all, in Shabbos we allow a Jew to use a bathhouse right away after Shabbos if it was heated for non-Jews. (Don't say we're stricter by foods than by other items), since it's hard to differentiate between food and other objects.

The Ri says: (when you have a "three-day Yom Tov", like) when Yom Tov falls out on Thursday

and Friday, or it falls out on Sunday and Monday, if a non-Jew does a Melacha for a Jew, it's permitted on the third day. You don't need to permit it only on a day that it's permitted to do the Melacha, since someone wouldn't ask a non-Jew to do something so he'll have it two days later. However, it's better to be stringent.

(The definition "of the time it takes to do it" according to Tosfos (who says the reason to forbid it so you shouldn't ask a non-Jew to do the Melacha) refers to the time it takes to do the Melacha plus the time it takes to bring it to you (so you shouldn't save any time by asking a non-Jew). Also, if he brings a basket of fruit, it's a Safeik whether we assess the time one person can harvest them or many people.)

#### Daf 25a

If it's not from a type of item that grows from the ground, if it's from within the T'chum, it's permitted. If it's from outside the T'chum, it's forbidden. However, if it's brought for one Jew, it's permitted for another Jew.

**Tosfos asks: why the discrepancy? After all, if the problem is because it's Muktzah, it should be Muktzah to everyone. If it's because the non-Jew did a Melacha for him, then it should be prohibited to other Jews too. After all, we say in Shabbos; if a non-Jew lights a lamp, if it's for a Jew, it's prohibited, and it doesn't differentiate between the one he lit it for and other Jews.**

**Tosfos brings Rashi who answers: perhaps, by T'chum that's a rabbinical prohibition, we wouldn't be too stringent and only forbid it to the one it was brought for.**

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