

1 תני ר' אבהו קמיה דר' יוחנן כל המקלקלין פטורין חוץ מחובל ומבעיר - ר' אבהו taught that even though generally one would be done in a destructive way, however, חובל ומבעיר - wounding and burning - since they are inherently destructive acts, one is חייב for doing them in a destructive way.
 חובל ומבעיר ר' יוחנן disagrees and holds that one is only חייב if they are done for constructive purposes. For example;
 - חובל בצריך לכלבו - When one makes a wound to draw blood that he needs to feed his dog, or
 - מבעיר בצריך לעפרו - One makes a fire because he needs the ashes. However, when it's entirely destructive one is פטור.



2 The Gemara asks - רבי אבהו indeed quoted a בריתא, but ר' יוחנן seems to be supported from our משנה which states unequivocally - כל המקלקלין פטורין - One is exempt for any destructive act, seemingly without exception, even חובל ומבעיר.



3 The Gemara explains that the מחלוקת between the בריתא and the משנה reflects the general שמעון רבי יהודה ורבי שמעון regarding מלאכה שאינה צריכה לגופה.
 מתניתין רבי יהודה בריתא רבי שמעון

The משנה which says that one is חייב for חובל ומבעיר only if there is some constructive benefit from it, but when entirely destructive he's פטור, holds like רבי יהודה.
 The בריתא which holds that one is חייב for חובל ומבעיר even when entirely destructive, holds like רבי שמעון.



4 The Gemara elaborates;
 מאי טעמא דרבי שמעון - What is שמעון's source that one is חייב for חובל ומבעיר when completely destructive, even though מלאכה is פטור for every other מלאכה?

The Gemara answers;
 מדאיצטריך קרא למישרא מילה - Since the תורה had to write a special Posuk
 ביום אפילו בשבת - to let us know that ברית מילה may be performed on שבת we understand that it is normally אסור to make a wound on שבת. Similarly, כהן, מדאסר רחמנא הבערה בבת כהן - from the fact that the Torah does not allow burning אבן בת כהן who committed adultery we understand that generally מבעיר is חייב.

4 The Gemara elaborates

מאי טעמא דרבי שמעון?

חייב

When entirely destructive
כאילו מלאכה פטורה לכל מקרה?

מדאיצטריך קרא למישרא מילה
 The *תורה* had to write a special Posuk

מדאסר רחמנא הבערה בבת כהן
 The *תורה* doesn't allow burning אבן בת כהן

בליום - אפילו בשבת

ברית מילה may be performed on שבת

חובל
 Normally *אסור*

מבעיר
 Generally *חייב*

5 Now, according to R' Shimon we cannot say that he's חייב because of the secondary constructive benefit of מצות מילה being fulfilled, or the כהן achieving atonement, because R' Shimon holds מלאכה שאינה צריכה לגופה פטור, we do not consider the secondary purpose - one is חייב only for the primary purpose of the מלאכה. Therefore, חובל ומבעיר which is primarily destructive, would not be affected by the secondary constructive purpose, and would remain a מלאכה for which one is generally פטור. And since we learn from the פסוק that חובל ומבעיר IS חייב, one is חייב for חובל ומבעיר even when it's entirely destructive. This is the opinion of the ברייתא.

According to R' Yehuda who holds מלאכה שאינה צריכה לגופה פטור - one is חייב even if he did the מלאכה for its secondary purpose, we CAN say that both the case of a ברית מילה and the burning of the lead wick for שריפת בת כהן are considered to be constructive acts because of their secondary benefit, and that is why the Torah is מחייב. Then we have no proof that the Torah would be מחייב when it's entirely destructive. Therefore, the Mishnah holds that when it's a complete מלאכה he's פטור.

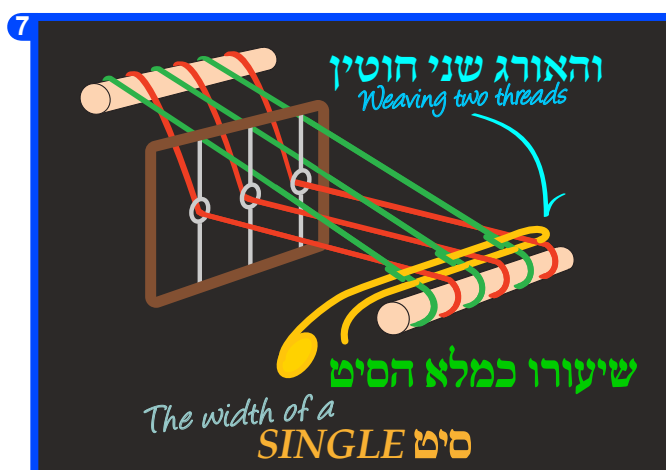
5

רבי יהודה	רבי שמעון
Secondary benefits	Secondary benefits
מצות מילה ✓ Atonement ✓	מצות מילה ✗ Atonement ✗
מלאכה שאינה צריכה לגופה <i>חייב</i>	מלאכה שאינה צריכה לגופה <i>פטור</i>
חובל ומבעיר <i>חייב</i>	חובל ומבעיר <i>חייב</i>
<i>ONLY</i> when done for constructive purposes	<i>EVEN</i> when entirely destructive

6 The Gemara next refers to the previous Mishnah which stated as follows:
 המלבן - One who whitens the wool by washing it in water.
 והמנפץ - One who disentangles the wool by hand or by comb.
 והצובע - One who dyes the wool.
 והטווה - One who spins the wool into threads.
 The minimum שיעור to be חייב is;
 סיט כמלא רוחב הסיט כפול - the width of a double סיט.



7 והאורג שני חוטין שיעורו כמלא הסיט - One who weaves two threads the width of one סיט.



8 The Gemara relates; רב יוסף would indicate a single סיט by extending his index finger and middle finger and teach that this length must be doubled.
 רב חייא בר אמי would teach it as one measure, by showing the distance between his thumb and index finger.



9 The next Mishnah proceeds with the מלאכה of צד - trapping. Zugt di Mishnah;
 - רבי יהודה אומר הצד צפור למגדל וצבי לבית חייב
 R' Yehuda holds that if one traps a bird into a closet or a deer into a house he is חייב.
 The חכמים hold that even if the deer is trapped into a larger area like a garden or courtyard, one would be חייב.
 רשב"ג formulates a rule to govern the הלכות of trapping:
 - מחוסר צידה פטור שאינו מחוסר צידה חייב
 If even after locking the animal into an area, you would still need to work to catch it the animal is not considered trapped.
 If it is locked in a way that it is now easy to catch, it is considered trapped.

9 **חכמים**
 Even in a larger area like a garden or courtyard
חייב

ר' יהודה
 הצד צפור למגדל וצבי לבית
חייב

רשב"ג
 מחוסר צידה פטור
 שאינו מחוסר צידה חייב
 Easy to catch
 Needs work to catch
פטור
חייב



10 The גמרא asks a double contradiction between a משנה in מס' ביצה and a ברייתא:
 The משנה holds it is permissible to trap wild animals and birds from enclosures on יום טוב and the ברייתא holds אין צדין מהם?
 מהם?

10 **מס' ביצה**
 It is permissible to trap wild animals and birds from enclosures
יום טוב

ברייתא
 אין צדין מהם?
?



11 The גמרא deals with the contradiction about birds and the contradiction about wild animals separately:
 The contradiction about trapping חיות can be resolved in two ways:

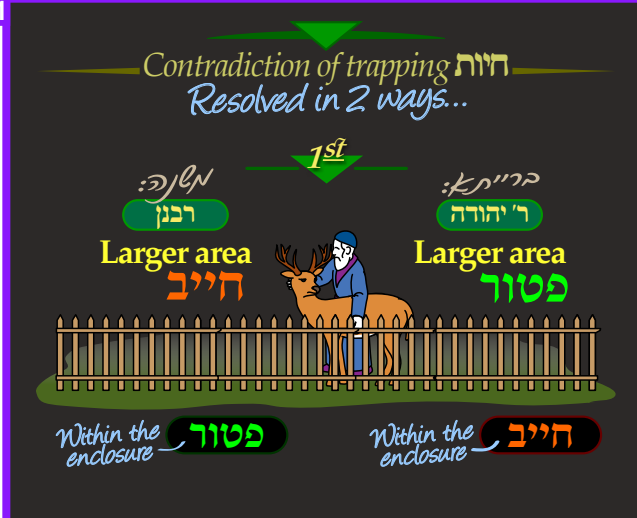
First, the גמרא suggests - הא רבי יהודה הא רבנן
 The ברייתא holds like רבי יהודה that you are פטור for trapping into a large enclosure, because it's not considered trapped. If so, you're not allowed to trap it within the enclosure.
 The משנה holds like the רבנן in our משנה that one is חייב even for trapping into a larger area. Once it's considered trapped, you may grab it inside the enclosure.

11 **חיות**
 Contradiction of trapping חיות Resolved in 2 ways...

1st

רבנן
 Larger area חייב
פטור
 Within the enclosure

ברייתא
 ר' יהודה
 Larger area פטור
חייב
 Within the enclosure



- 12 Second, the Gemara answers קטן בביבר גדול הא בביבר קטן - The Mishnah spoke about a חיה in a large enclosure where it's not considered trapped, and therefore אסור to be trapped inside the enclosure.
The Mishnah spoke about a small enclosure where it's considered already trapped, and therefore, מותר to be trapped inside.

12

2ud

מותר

בביבר קטן
IS considered trapped

אסור

בביבר גדול
NOT considered trapped

- 13 The contradiction about trapping birds can be answered - הא ביבר מקורה הא ביבר שאינה מקורה - The Mishnah there that allows you to take a bird from an enclosure is talking about a case where it is in a roofed enclosure, whereas the Mishnah which doesn't allow taking the bird is talking about where it is in an unroofed enclosure.

13

Contradiction of trapping birds

מותר

בביבר
שאינה מקורה

אסור

בביבר
מקורה

- 14 Even though our Mishnah here does not consider a bird in a roofed house to be trapped, because our Mishnah said that a bird is considered trapped only in a closet, but not in a house - the Mishnah is speaking about a צפור דרוור, a wild bird that is more difficult to catch.

14

Even though our Mishnah

פטור

צפור דרוור
A wild bird
Difficult to catch

חייב

הצד צפור למגרל

NOT trapped **Trapped**

15 There are three possible ways to define the criteria of ביבר קטן:

-1- כל היכא דרהיט בתריה ומטי לה בחד שיחייא ביבר קטן -
If you can reach the animal in one lunge it is considered a small enclosure.

-2- כל היכא דנפיל טולא דכתלים אהדדי ביבר קטן -
When the shadows of the walls reach each other it is considered a small enclosure.

-3- כל היכא דליכא עוקצי עוקצי ביבר קטן -
If there are not too many small corners for an animal to hide it is considered a small enclosure.

15

3 ways to define
ביבר קטן...

1st	2nd	3rd
דרהיט בתריה ומטי לה בחד שיחייא Can reach the animal in one lunge	דנפיל טולא דכתלים אהדדי Shadows of the walls reach each other	דליכא עוקצי עוקצי Not many small corners for animal to hide

16 The Gemara continues;

אמר רב יוסף אמר רב יהודה אמר שמואל הלכה כרבן שמעון בן גמליאל -
We pasken like רבן שמעון בן גמליאל - that if the enclosure is large the animal is not considered to be trapped. The רבנן actually agree to רבן שמעון בן גמליאל which is important to know because גמרא גמור זמורתא תהא - it is important to clarify what each תנא held even if it does not affect the הלכה. Because, should the גמרא be treated like a meaningless song?

16

אמר רב יוסף
אמר רב יהודה אמר שמואל...
הלכה כרבן שמעון בן גמליאל

It is important to clarify
אמר רב יוסף אמר רב יהודה אמר שמואל...?

17 The Gemara proceeds to teach several Halochos of trapping.

תנו רבנן הצד צבי סומא וישן חייב חיגר וזקן וחולה פטור -
One who traps a deer that is blind, sleeping, or sick with a fever, is חייב since it tries to escape when it senses the person. If one traps a deer that is lame, old, or sick with exhaustion, he's פטור, since it cannot run away, it's considered already trapped.

17

תנו רבנן הצד צבי...
חיגר - Lame
סומא - Blind
וישן - Sleeping
זקן - Old
Sick with Fever
וחולה - Exhausted
פטור - Considered already trapped
חייב - It tries to escape

18 תנו רבנן הצד חגבין גזין צרעין ויתושין בשבת חייב דברי רבי מאיר - R' Meir holds that one is חייב for trapping flying insects. - וחכמים אומרים כל שבמינו ניצוד חייב וכל שאין במינו ניצוד פטור - The חכמים hold one is only חייב for trapping that which is commonly trapped - such as חגבין וגזין - various grasshoppers which are fit for consumption. However, one is פטור for trapping that which is usually not trapped, because there is no use for them - such as צרעין ויתושין - hornets and mosquitoes



19 A final ברייתא teaches - הצד חגבים בשעת הטל פטור בשעת השרב חייב - If one traps a grasshopper at a time that it is blinded by dew he's פטור, but if he traps a grasshopper during a heat wave, even though they are less active, he's חייב. חייב adds that even during a heat wave, if large numbers of them gather in a swarm he's פטור, because they are readily taken.



20 משנה זגת: - צבי שנכנס לבית ונעל אחד בפניו חייב - If a deer goes into a house and a person closes the door he is חייב. - נעלו שנים פטורים - If two people, each of who could have closed off the entrance on their own, close the entrance together, they are both פטור. If one person could not do it on his own, and two people do it together, the תנא קמא holds they are חייב but ר' שמעון holds they are פטור.



21 The Gemara teaches that a lion is not considered trapped until put into a proper cage. Rashi explains that other restraints are inadequate.

21

Lions
 Considered trapped **ONLY** in a proper cage
 רש"י
 Other restraints are inadequate



22 Zugt di משנה: ישב האחד על הפתח ולא מילאהו ולא מילאהו
 If one person sits by the doorway of a house that has a deer in it, but doesn't completely block the doorway, and then a second person sits and blocks the doorway, the second person is חייב. It is the second person who trapped the animal. If the first person completely fills the doorway, even if he gets up and leaves the second person there blocking the doorway, only the first person is חייב, because it is he who trapped the animal. The second person did nothing to trap the animal.

22

ישב האחד על הפתח...
 First person fills the doorway
 ולא מילאהו



FIRST person חייב
 SECOND person חייב