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TALMUDIC METHODOLOGY
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Shiur#13: The *Melakha* of *Tzeida* and Imposing Human Authority

A previous *shiur* addressed the unique dynamic of the *melakha* of *tzeida* (capturing) on Shabbat. Unlike most *melakhot*, no discernable change or impact is rendered by the act of capture. Most *melakhot* create either a physical or chemical change, whereas confining an animal accomplishes neither. Unlike other *melakhot* in which the outcome is prohibited and the exact details of the process may be less significant, we might argue that *tzeida*, without any palpable impact, would demand a highly specialized type of action. Thus, only professional acts of catching, or at least premeditated acts, constitute a violation.

Although this theory is indicated by several unique *halakhot* of *tzeida*, it is also possible that *tzeida* IS NOT DIFFERENT from conventional *melakhot*. It is true that no apparent physical or chemical change is rendered, but an important psychological transformation occurs when a free animal is placed in captivity. By imposing AUTHORITY and stripping the animal of its independence, *tzeida* may create the type of IMPACT which is typically forbidden.

If this is true and *tzeida* is accomplished not merely by capturing, but by imposing control and stripping independence, we may assert certain unique conditions regarding this violation. An interesting example would pertain to the "*dror*" bird, which is so named because it can adapt to live in the fields or in a contained house (*dror* being an etymological parallel to the word *dira*, residence). Due to this adaptability, *tzeida* is only violated by placing this bird in a narrow and cloistered area (see *Shabbat* 106a). Simply capturing it within a roofed area or even a home would not entail a violation.

Rashi in *Beitza* (24a) comments that this bird's adaptability allows it to elude human grasp even when contained in roofed structures. According to

Rashi, no act of capture has been performed by placing the bird in such structures, and obviously *tzeida* hasn't been perpetrated. As logical as Rashi's statement sounds, the *gemara* does not assert that the bird's adaptability to different regions affords it unique "escape" abilities. Instead, the *gemara* comments that its adaptability enables it to DEFY HUMAN AUTHORITY even when placed in roofed structures. As Rabbenu Chananel in his comments to *Shabbat* writes, "even when captured [in an ordinary roofed structure], this bird does not [instinctively] sense its captivity since it [still] does not accept authority." Evidently, merely containing an animal does not violate *tzeida*; only by imposing human authority can *tzeida* be violated. A *dror* bird only senses this imposition in a very narrow cloister.

A second example of "imposed authority" as a prerequisite for *tzeida* violation can be seen in an interesting discussion about domestic chickens and geese. The *gemara* in *Beitza* (24a) questions the permissibility of capturing such birds on *Yom Tov*. Rav Mari reasons that since they do not flee human grasp, they are already "captured" and can be seized. Shmuel offers a different reasoning: chickens and geese return to their cages to sleep AND are fed by human hand. It is unclear from Shmuel's statement why these conditions eliminate the *melakha* of *tzeida*.

One approach would suggest that the sleeping and feeding cycles of such birds can be employed by humans to "lure" them. As such, they may be considered already "ensnared" by human control and their PHYSICAL seizure may not violate *tzeida*. Of course, we may question whether these animals can be seized when they are not sleeping or feeding and presumably are not naturally under human control. However, this view would eliminate the prohibition because these birds are already "captured" and the physical seizure is redundant and meaningless.

Rabbenu Chananel, in his comments to *Beitza* (24a), writes that these animals are considered domesticated and therefore no *tzeida* entails. It seems that – again - Rabbenu Chananel believes that *tzeida* is only transgressed if authority has been imposed. Animals that feed and sleep in the human "space" already live as "domesticated" creatures. *Tzeida* cannot possibly be performed even if their movement is limited by physical seizure. *Tzeida* demands imposition of authority, and where that authority already exists, no *melakha* can be violated.

Yet another example may be the discussion surrounding closing a box containing flies or bees. The *gemara* in *Shabbat* (43a) implies that a hive containing bees cannot be "tightly" sealed on *Shabbat*. Based upon this precedent, the *Ba'al Ha-Terumot* (see the *Tur Orach Chayim siman* 316) claims that a box containing flies may not be sealed. Although the comparison between bees and flies is ultimately accepted, many commentators sensed a difference and suggested the absence of *tzeida* infraction in the situation of flies. Although many distinguish between the elusiveness of flies and bees (capturing flies in a box does not assure actual seizure when ultimately attempting to grasp them), the *Beit Yosef* distinguishes between the HIVE as the NATURAL space of the bees, and a box, which is an area foreign to the flies. His source for the idea that *tzeida* is only forbidden when trapping an animal in its natural location, is a *gemara* in *Shabbat* (106b), which claims that *tzeida* of a lion can only be violated by fastening it to its "*garzaki*" – its familiar cage.

Why should *tzeida* demand placement in natural containers rather than merely confining ones? Perhaps, the *Beit Yosef* adopts a definition of *tzeida* which demands not merely containing movement but imposing authority. Merely capturing a lion will limit its movement, but the lion will not necessarily submit to human authority. Returning it to its own cage will certainly impose that authority in greater measure.

Similarly, trapping insects in a box will limit their movement but not change their behavior. Trapping bees in a hive will change their BEHAVIOR because:

1. It is a recognizable space
2. They will begin to manufacture honey for human utility

These two factors determine that closing bees in a hive imposes authority and should be forbidden; capturing flies in a generic box may not.

Finally, the question of *tzeida* as imposing authority may explain a peculiar position adopted by the *Yam Shel Shlomo* in his comments to the first *mishna* in the third *perek* of *Beitza*. The *mishna* had prohibited capturing fish on *Yom Tov*, although some animals MAY be captured under certain conditions, the prohibition of fish remains absolute. Why is the capture of fish unconditionally forbidden, while there are exceptions with regard to other

animals? *The Yam Shel Shlomo* claims that removing fish from water constitutes *kezira* - detaching an item from its life source - and is therefore unilaterally forbidden.

Did the *Yam Shel Shlomo* intend that IN ADDITION to *tzeida*, capturing fish entails a prohibition of *kezira*, accounting for the broad sweep of the prohibition, or did he intend that *tzeida* DOES NOT APPLY to capturing fish and ONLY *kezira* is relevant? This is the basis of a *machloket* between the *Magen Avraham* (OC 497:6) and the *Pri Megadim*. Logically, it remains difficult to eliminate the prohibition of *tzeida* from fish simply because a different prohibition happens to apply. How might we justify the *Magen Avraham's* contention that according to the *Yam Shel Shlomo* *kezira* is violated but *tzeida* is not?

Perhaps the logic discussed before underscores an exclusivity between *kezira* and *tzeida*. As *tzeida* consists of the imposition of human authority upon an animal, it cannot possibly apply to fish, which die immediately after being removed from their source of life. Even though the fish may live beyond the extraction from water, the act cannot be defined as imposition of authority since it is, in essence, the termination of life. By defining *tzeida* as creating an "existential" change in animals, we may find it incompatible with the act of fishing.

Interestingly, the question of *tzeida* as it applies to fish may be apparent in the case of the *chilazon*. The *gemara* in *Shabbat* (75a) clearly states that capturing a *chilazon* violates *tzeida*, whereas Tosafot quote a Yerushalmi that no *tzeida* has been violated. As a *chilazon* can live extensively out of water, it may be dissimilar to fish. Extracting fish launches a process which will soon terminate in their death; as authority hasn't been imposed on a fish so that it will behave differently, no *tzeida* exists. In contrast, capturing a *chilazon* DOES impose human authority, since it will continue to live and behave under the influence of human control.