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May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Rabbi Abba said in the name of Rabbi Chiya bar Ashi, who said it in the name of Rav: If (*on Shabbos*) a bird creeps under the skirts of one's garments (*and cannot escape from there*), he may sit and guard it (*thus preventing it from escaping*) until evening. [*He is not obligated to set it free, for he is not trapping; he is merely guarding it.*]

Rav Nachman bar Yitzchak objected (*from our Mishna*): If the first person was already completely blocking the doorway and the second person sits down next to him, even if the first person arises and leaves, the first person is liable and the second person is exempt. [*The second person is not liable because the deer was previously trapped due to the first person sitting in the doorway. When the first person leaves, the second person is merely guarding the deer in the house.*] Now, surely that means that he is exempt (*from liability to bring a chatas*), yet it is (*Rabbinically*) forbidden? [*Shouldn't the same Rabbinic prohibition apply by this case with the bird as well?*]

The *Gemora* answers: No! He is exempt, and it is permitted.

The *Gemora* supports this with the following logic: The second clause of the *Mishna* teaches: What is this compared to? It is to one who locks his house to guard it, and a deer is thereby found to be guarded inside, it follows that it means: he is exempt, and it is permitted (*for the case of locking the house is definitely permitted*).

Others cited the discussion as follows: Rav Nachman bar Yitzchak said: We too have learned like that (*that one*

*may sit and guard the bird that crept under his garments*): even if the first person arises and leaves, the first person is liable and the second person is exempt. Now, surely that means that he exempt, and it is permitted?

The *Gemora* disagrees: No! He is exempt, yet it is forbidden.

The *Gemora* asks: But since the second clause of the *Mishna* teaches: What is this compared to? It is to one who locks his house to guard it, and a deer is thereby found to be guarded inside, it follows that it means: he is exempt, and it is permitted (*for the case of locking the house is definitely permitted*). This indeed proves it.

**There are only three instances where the term 'exempt' regarding the laws of *Shabbos* means exempt, and it is permitted (for usually, it means that he is exempt, but it is *Rabbinically* forbidden).**

Shmuel says: Everything (*taught as*) involving no liability on the *Shabbos*, involves no liability (*to a chatas*), yet it is (*Rabbinically*) forbidden, except for three cases, which involve no liability and are (*also*) permitted.

They are: this case (*the trapping of a deer*). [*Generally, trapping an animal through sitting in an open doorway of a room containing an animal is forbidden on Shabbos. A Mishna teaches that if one person was already completely blocking the doorway and a second person sits down next to him, even if the first person arises and leaves, the*

second person is permitted to remain where he is. Shmuel teaches us that although “exempt” usually means that he is Biblically exempt from a chatas, yet, it is Rabbinically forbidden, here it is completely permitted.] The Gemora explains that the way we know that he is exempt, and it is permitted, is because the second clause of the Mishna teaches: What is this compared to? It is to one who locks his house to guard it, and a deer is thereby found to be guarded inside, it follows that it means: he is exempt, and it is permitted (for the case of locking the house is definitely permitted).

The next case is the burning of a boil on Shabbos; if his intention is to create an opening for the boil so that air can enter and the boil will heal, he is liable for performing a melachah on Shabbos, but if his intention, however, was to remove the pus from the boil, he is exempt. The Gemora explains that the way we know that he is exempt, and it is permitted, is because of that which we learned in the following Mishna: A small needle may be moved on Shabbos for the purpose of extracting a thorn.

The third case is regarding one who traps a snake on Shabbos. If his intention is that the snake should not bite him, he is exempt. If, however, his intention is (to possess the snake) for a cure, he is liable. The Gemora explains that the way we know that he is exempt, and it is permitted, is because of that which we learned in the following Mishna: One may place a bowl over a candle to protect the overhead beam from catching fire, or over feces of a child, or over a scorpion so it shouldn't sting. (107a)

## WE SHALL RETURN TO YOU, HA'OREIG

**One who traps or injures any of the eight sheratzim on Shabbos is liable, but one who injures any other rodents and crawling creatures is exempt.**

The Torah mentions eight sheratzim, rodents or reptiles that generate tumah. These are the choled, (weasel) the achbar, (mouse) the tzav, (toad) the anakah, (porcupine)

the koach, (lizard) the letaah, (lizard) the chomet (snail) and the tinshemes (mole). If one traps them or injures them on Shabbos, he is liable. Trapping these rodents is prohibited (as they are normally hunted). [Injuring the rodents is prohibited because of taking the life of a live creature or because bruising the animal falls under the category of dyeing, as the skin of the animal is discolored.] One who injures other rodents besides these eight rodents is exempt (because they do not have hides). If he traps them for a positive purpose, he is liable, but if it is not for a positive purpose, he is exempt. Beasts and birds that are under one's control – one who traps them is exempt, and one who injures them is liable. (107a)

The Gemora infers: Since the Tanna taught: he who wounds them (the eight sheratzim) is liable, it follows that they have hides (for the injury is irreversible and he is liable for slaughtering – ‘taking part of its life,’ or, their hides become discolored, and he is liable for dyeing).

Shmuel notes that the Tanna who maintains this (that these eight sheratzim have hides) is Rabbi Yochanan ben Nuri, for it was taught in a Mishna: Rabbi Yochanan ben Nuri said: The eight sheratzim have hides. [The Rabbis rule that the hides of four of these sheratzim convey tumah (as neveilah, if they weren't slaughtered properly, for their hides are soft and regarded as part of the flesh), and R' Yochanan ben Nuri disputes this and holds that none of them convey tumah (for their hides are hard and distinct from their flesh).]

Rabbah son of Rav Huna said in the name of Rav: You may even say that our Mishna agrees with the Rabbis, for the Rabbis disagree with Rabbi Yochanan ben Nuri only in respect of tumah, because it is written: And these are they which are tamei to you, extending the law to teach that their hides (the four which were previously listed in the verse) are as their flesh; but in respect to Shabbos, even the Rabbis agree (that they have hides).

The *Gemora* asks: But do they not differ in respect of *Shabbos*? Surely it was taught in a *braisa*: He who traps one of the eight *sheratzim* mentioned in the Torah, or he who injures them, is liable; these are the words of Rabbi Yochanan ben Nuri. But the Rabbis maintain: Only those which the Sages enumerated (*in the Mishna in Chulin*) have hides, and regarding that it was asked: On the contrary! Those which the Sages enumerated have no hides!? And Abaye answered: This is what the *Tanna* was stating: Only those not enumerated by the Sages have a hide distinct from the flesh. [Evidently, their dispute extends to *Shabbos* as well!?!]

Rava said to him: [How can the *braisa* be interpreted in such a manner?] But the *braisa* stated: which the Sages enumerated (*it did not say, 'which the Sages did not enumerate'*)?

Rather, Rava said: This is the meaning of the *braisa*: The hides of those only which the Sages enumerated convey *tumah* like the flesh. [Accordingly, they do not disagree regarding *Shabbos*.]

The *Gemora* asks: It would emerge that Rabbi Yochanan ben Nuri holds that even those which the Sages did not enumerate convey *tumah* in this way! But it is taught in the *Mishna*: Rabbi Yochanan ben Nuri said: The eight *sheratzim* have hides and do not convey *tumah*?

Rather, said Rav Adda bar Masnah, it should be interpreted as follows: But the Sages maintain: In respect of *tumah*, those which the Sages enumerated do not have hides.

The *Gemora* challenges Rav: Still, however, do they not differ in respect of *Shabbos*? But it was taught in a *braisa*: He who traps one of the eight *sheratzim* mentioned in the Torah, or he who injures them, is liable, but only in the case of the *sheratzim* which have hides. And what is a wound that does not heal? If the blood becomes clotted,

even if it does not emerge. Rabbi Yochanan ben Nuri said: The eight *sheratzim* have hides.

Rav Ashi answers: Who is the first *Tanna*? It is Rabbi Yehudah, who maintains that the thickness (*of its skin*) is the criterion, for we learned in a *Mishna*: Rabbi Yehudah said: The *letaah* is like the *choled* (*that its skin does not convey tumah*). But the Rabbis who disagree with Rabbi Yochanan ben Nuri in respect of *tumah* agree with him in respect of *Shabbos*. [Rabbi Yehudah holds that the question whether the skin of *sheratzim* is like their flesh or not in the matter of *tumah* is not decided by deduction from the verse: and these are they which are *tamei* to you, but is dependent on the thickness of the skin. If it is thick and perceptibly distinct from the flesh, it is not the same as the flesh; otherwise it is. By this criterion the *letaah* is like the *choled*, since both have thick skins; though if the matter were decided by Scriptural exegesis, these two would be dissimilar, as is shown in the *Gemora Chulin 142a*. Therefore, he holds that in respect of *Shabbos* as well, three of these eight have no skin, i.e., if one wounds them he is not liable, for the skin is thin and not distinct from the flesh. But the Rabbis regard the *letaah* as one of the *sheratzim* whose skin is the same as their flesh, in spite of its thickness. This shows that they settle the matter solely by reference to the verse, and therefore their view, which disagrees with Rabbi Yochanan ben Nuri's, applies only to *tumah*, since the verse is written in that connection, but not to *Shabbos*.]

The *Gemora* asks: If so, instead of 'this is the view of Rabbi Yochanan ben Nuri,' 'this is the view of Rabbi Yochanan ben Nuri and his opponents' should have been stated (*since the Rabbis, in fact, agree with him*)?

The *Gemora* answers (*by emending the text*): This is the view of Rabbi Yochanan ben Nuri and his opponents.

Levi inquired of Rebbe: How do we know that a wound is irreversible (*and if not, one will not be liable on Shabbos*)? It is because it is written: *Can the Kushite change his skin,*



or the leopard his *chabarburos*? What does *chabarburos* mean? Does it mean that it is covered with spots? Then instead of 'and a leopard his *chabarburos*,' it should state: 'a leopard his colors'? Rather, the verse refers to the Kushite: just as the skin of a Kushite cannot turn colors, so too a wound is one that is not reversible.

**One who kills a louse on *Shabbos* is akin to one who kills a camel on *Shabbos*.**

The *Mishna* stated that one who injures other rodents is exempt, and the implication of this statement is that one who kills any of these rodents is liable. This is in accordance with Rabbi Eliezer who maintains that one who kills a louse on *Shabbos* is akin to having killed a camel on *Shabbos*.

The *Gemora* states that even the Chachamim agree that with regard to rodents that reproduce, one who kills them on *Shabbos* is liable. The dispute between Rabbi Eliezer and the Chachamim did with regard to killing a louse on *Shabbos*, as Rabbi Eliezer derives from the building of the Tabernacle where hides of rams were used to cover it. Rabbi Eliezer maintains that just like killing a ram requires taking its life, also taking any creature's life on *Shabbos* is prohibited. The Chachamim, however, maintain that the prohibition applies to any creature similar to a ram that reproduces, and since lice do not reproduce, one is not liable for killing a louse on *Shabbos*. (107b)

**Hashem sustains all creatures, from the horns of the *r'eimim* to the eggs of lice.**

The *Gemora* attempts to prove that lice reproduce because of the statement that Hashem sustains all animals from the horns of the *r'eimim* (a tall animal with beautiful horns) to the eggs of lice. The term "eggs of lice" implies that lice reproduce. The *Gemora* concludes that there is a species called "eggs of lice," and these are not the same as lice that hatch. (107b)

**There is a dispute regarding one who traps a flea on *Shabbos*.**

Rabbi Eliezer maintains that one who traps a flea on *Shabbos* is liable, and Rabbi Yehoshua maintains that he is exempt. Rabbi Eliezer holds that one who traps an animal that is normally not hunted is liable, whereas Rabbi Yehoshua holds that one is exempt. (107b)

**One who traps the rodents for a positive reason is liable, and if one traps them not for a positive purpose, he is exempt.**

Regarding other rodents besides the eight *sheratzim* mentioned in the Torah, the *Mishna* stated that one who traps them for a positive reason is liable and one who traps them not for a positive purpose is exempt. The *Gemora* states that this is in accordance with Rabbi Shimon, who maintains that one who performs a *melachah shein tzricha legufah*, an act of labor not for its defined purpose, is exempt. If the person only trapped the rodent so the rodent should not harm him, this is not considered a defined purpose, and he is exempt. Rabbi Yehudah disagrees and maintains that one is also liable for performing a *melachah shein tzricha legufa*. (107b)

**One who removes a fish from the sea is liable once the fish becomes dry between its fins.**

One who removes a fish from the sea on *Shabbos*, if there is a dry spot between the fins of the fish, it is considered dead, and the person is liable for taking a life. The spot does not have to be actually dry, but even if the surface of the fish becomes sticky, one is liable. (107b)

**One who causes an animal to miscarry is liable.**

If one places his hand inside an animal and causes the animal to miscarry, he is liable for removing something from its place of growth. This is similar to one who removes hops from briars and brambles where he is uprooting something from its place of growth. (107b)

**One who removes fungus from a pitcher's handle is liable for removing something from where it grows.**

Fungus may grow on the side of a vessel, so one who removes the fungus from the handle of the pitcher is liable for uprooting something from its place of growth. One who removes a plant from a perforated flowerpot is liable, because the plant receives its nourishment from the ground. One who removes a plant from a non-perforated flowerpot is not liable, because a plant that grows in a non-perforated flowerpot is not considered its normal place of growth. (107b – 108a)

## INSIGHTS TO THE DAF

### *Hunting Deer*

Among the thirty-nine forbidden melachos of Shabbos are *shocheit* (slaughtering) and *tzeida* (trapping). As we know, under certain circumstances, a single action can violate several melachos. The Orchos Shabbos (ch. 14, footnote 3) asks if hunting deer might not also be an example of this. If a person catches a live deer, he violates *tzeida*. If he slaughters a deer in his possession, he violates *shocheit*. What would be the halacha if a person shot a deer in the forest? He at once slaughters the deer, and brings it under his control. Is this not a violation of both melachos?

This question brings us to examine the precise definition of *melechtes tzeida*. Does trapping consist only of bringing a live animal under one's control, or does any impediment to the free movement of an animal comprise *tzeida*? Death is certainly the greatest impediment to an animal's free movement.

This question was presented before R' Elyashiv *shlita*, who responded by citing a proof from our sugya. The *Gemora* rules that if a person takes a fish out of water,

and an area of its skin the size of a *sela*-coin dries out, he violates *melechtes shocheit*, since the fish will most certainly die. Rashi, Tosafos, and the Rambam all explain that our *Gemora* discusses the death of a fish that was already caught before Shabbos. What led them to draw this conclusion? Apparently, they wished to emphasize that if the animal had previously been free, and a person pulled it out of the water on Shabbos, he would have violated *melechtes tzeida* immediately. Therefore, the Rishonim explained that the *Gemora* discusses a case in which the animal was already trapped, and no melacha was violated until its scales dried out. We see therefore, that pulling a free-swimming fish out of water and thereby killing it, is a violation of both *tzeida* and *shocheit*. Presumably, the same should apply to shooting a wild deer.

On further consideration, this proof is not conclusive. When the fish is first pulled out of water, it is caught, but does not die until it dries out. Therefore, *melechtes tzeida* has been performed on a living animal, and *shocheit* performed some time after. This would be more similar to a case of trapping a live deer and then slaughtering it, undoubtedly a violation of two melachos.

Another consideration in *melechtes tzeida* is rescuing a drowning man from the water. Is this any different than catching a fish? R' Shlomo Zalman explained that *tzeida* does not apply to domestic animals, as we find in the *Gemora* (Shabbos 107). Even if they are released, they willingly return home. Therefore, they are considered 'trapped', wherever they go, and there is no further prohibition against trapping them again. The same is true of humankind, who willingly seek out each other's company. There is no prohibition against trapping people, because they are already "trapped" by society, so to speak.

Furthermore, even if trapping would apply to humankind, it would only apply to cases in which the victim of the chase attempts to escape his pursuers. A drowning man



makes no attempt to escape his rescuers, and therefore it is not considered trapping to rescue him (See Kobetz on Rambam Shabbos 10:22 who writes to the contrary. See also Teshuvos Avnei Nezer, O.C. 189).

### ***Killing Lice on Shabbos***

The Tannaim in our sugya debate whether it is forbidden to kill lice on Shabbos. According to R' Eliezer, killing lice is forbidden, no different than killing any other living thing. According to the Chachomim, it is permitted. The halacha follows their opinion, and it is therefore permitted to kill the lice that are commonly found in hair or clothing (see Shabbos 12a; Shulchan Aruch O.C. 316:9).

The *Gemora* explains the reasons for the two sides of this debate. Like the other melachos, *shocheit* (slaughtering) is learned from the activities that were necessary in the construction of the Mishkan. Animals were slaughtered in order to make coverings from their hides. So too, we are forbidden to slaughter animals on Shabbos. According to R' Eliezer, this prohibition applies to all living creatures. However, the Chachomim learned that *shocheit* applies only to animals similar to those used in the Mishkan. The animals used in the Mishkan produced offspring in the normal, reproductive manner. Lice, however, do not reproduce, as the Rambam (Shabbos 11:2-3) writes, "One who kills insects that are formed from waste, rotten foods and the like, including worms that are found in meat or legumes, is exempt... One who checks his clothes for lice on Shabbos may pull the lice off, crush them, and throw them away. It is permitted to kill lice on Shabbos, since they are formed from sweat."

**Talmudic tradition against scientific investigation:** Over the course of the last few hundred years, scientific research has claimed to refute the once accepted theory of spontaneous generation. One of the most significant advancements in this field came with the development of powerful microscope lenses, by the Dutch scientist Antonie van Leeuwenhoek. He was the first to observe

bacteria and protozoa, and deduce that the maggots found in rotting food grew from microscopic eggs laid by flies. His theories were presented in the second half of the seventeenth century, but they did not gain widespread acceptance until almost two hundred years later, when Louis Pasteur revolutionized the scientific world with his study of microbiology. Pasteur demonstrated how microorganisms developed from microorganisms in the air, not from the air itself, as had previously been assumed. He thereby created perhaps the most central tenet of modern medicine – that disease is caused by germs. Since then, the scientific community has held as an unshakable axiom that all living organisms are bred from a previous generation of living organisms.

As such, contemporary Poskim have turned to re-examine the Rambam and the *Gemora*, in light of modern science. If we accept that lice are also born as a result of the reproductive process, need we then rule that it is forbidden to kill them on Shabbos?

Not long after Leeuwenhoek's discoveries, R' Yitzchak Lampronti, the famed Italian rav, rosh yeshiva, doctor and philanthropist (1679-1757), authored his encyclopedic anthology of Talmudic concepts, entitled Pachad Yitzchak. Therein, he writes that if not for his awe and fear of the holy Tannaim and Sages of the Talmud, he would have ruled that the halacha should indeed be changed according to the discoveries of modern science. Had the Ammoraim been aware of Leeuwenhoek's discoveries, they too would have forbid killing lice on Shabbos (Tzeida, 21:2).

In contrast, R' Yitzchak's own rebbe, R' Yehuda Brial of Mantova, writes staunchly against any such revision. "We must not change any of the laws that are based on our tradition from earlier generations, in favor of the investigations of gentile scholars.... We must not move from that halachic rulings of the *Gemora*, even if all the winds of human investigation in the world were to storm against us, for the spirit of Hashem speaks from within us."



The investigator lacks the ability to reach the depth of wisdom to be found in nature, and in the manifold works of creation... The gentile scholars do not know, nor do they understand any more than the most superficial level of science, as it appears to them. They do not see the depths, as did those who received a tradition in which the secrets of creation were revealed... Therefore the halacha is true, firm, correct and remains in its place. It should not be altered at all, and especially not due to the transient speculations of modern science." Other Poskim concurred with this conclusion (Emunas Chachomim ch. 22, 30:2; Sefer HaBris I 14:8).

More recently, R' Dessler (Michtav M'Eliyahu v. 4, 355-356) distinguished between halacha and the reasons behind halacha. The halachic rulings that our Sages received as a tradition, must not be changed one iota, regardless of the developments of modern science. However, our Sages sometimes explained the halachos, basing their reasons on the empirical evidence that was available to them. We are equally required to study the halachos, contemplate them, and develop reasons based on the scientific knowledge we now possess. However, this in no way permits us to alter the law itself.

R' Shlomo Zalman Auerbach zt"l explains that our Sages' assertion and the scientists' investigation can be reconciled. The halacha very often takes into account only those phenomena that are visible to the naked eye, and ignores that which is invisible. For example, we may drink water and breathe air, even though they are filled with countless microorganisms.

Our Sages discussed a species of lice that was hatched from microscopic eggs. As far as the unaided eye could tell, they were formed spontaneously from human sweat. The halacha therefore considers this to be true, and permits killing lice on Shabbos. However, the lice common today are hatched from visible nits. Therefore, it is forbidden to kill them (Shana B'Shana; Orchos Shabbos ch. 14, footnotes 47, 48).