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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Tzipor

[The Mishna had stated that one is not obligated to send away the mother from a nest of non-kosher birds. Rabbi Yitzchak says that while the word of – bird include both kosher and non-kosher birds, the word *tzipor* – bird used in the verse of *shiluach hakan* only refers to kosher birds. The Gemora again tries to prove that the word *tzipor* refers to non-kosher birds.]

Come and hear from that which is written: *Every tzipor that is kosher you may eat*; from which we may deduce that there is a *tzipor* that is non-kosher!?

No, we may deduce that there is a *tzipor* that is forbidden (*for consumption, but not because it is non-kosher*).

The Gemora asks: But which is that? It cannot be one that is *tereifah*, for this is expressly stated to be forbidden.

The Gemora answers that it is referring to a slaughtered bird of the *metzora*, and although it is derived (*that it's forbidden*) from the end of the verse as well, it is repeated to teach that one infringes on that account a positive and also a negative commandment.

The Gemora asks: But why not say that it is a *tereifah* bird that is meant, and it is repeated to teach that one

infringes on that account a positive and also a negative commandment?

The Gemora answers: The meaning of a verse is to be deduced from its context, and the context deals with those that are (*properly*) slaughtered.

The Gemora again tries to prove that the word *tzipor* refers to non-kosher birds from that which is written (*regarding the purification process of a metzora*): *Two live tzipporim*. Now what is meant by 'live'? It means, does it not, those that are 'alive' for your mouth (*that are fit for consumption*), and from which follows that there are also those *tzipporim* that are not 'alive' for your mouth?

The Gemora answers: No, by 'alive,' it meant those whose limb extremities are living (*intact*).

The Gemora attempts to prove it from the end of the above verse: *Kosher (tzipporim)*. Does this not imply that there are non-kosher *tzipporim*?

The Gemora answers: No, the implication is that there are *tereifos* (*which cannot be used*).

The Gemora asks: But aren't *tereifah* birds excluded by the term 'live'?

The *Gemora* notes that this presents no difficulty to the one who holds that a *tereifah* can continue live, but according to the one who says that a *tereifah* cannot live, what can be said?

And furthermore, both according to the one who says that a *tereifah* can live and the one who says that it cannot live, this (*that a tereifah is excluded from being used in the purification process*) is inferred from the teaching of a *braisa* taught in the school of Rabbi Yishmael. For it was taught as follows: It is written in the Torah qualifying *korbanos* (*such as asham metzora, which allows the metzora to eat kodoshim*) and atoning *korbanos* (*most korbanos are offered as atonement*), and they both are performed inside the Temple. And the Torah writes qualifying services (*such as the metzora birds, which allow the metzora to enter the camps*) and atoning services (*such as the eglah arufah*), and they are both performed outside the Temple. Just as the qualifying *korban* performed inside the Temple is equal in its *halachos* to the atoning *korbanos* performed inside the Temple, so too, the qualifying services performed outside the Temple is equal in its *halachos* to the atoning *korbanos* performed outside the Temple (*and therefore we can derive that a tereifah cannot be used for the purification of a metzora*).

Rather, Rav Nachman bar Yitzchak said: The expression 'kosher' serves to exclude the birds of an *ir hanidachas* (*a subverted city; one that was condemned to be destroyed by fire on account of a majority of its residents worshipping idols*).

The *Gemora* asks: But for which bird (*for there are two birds used in the process; one is sent away and one is slaughtered*)? It cannot be for the one that must be sent

away, for surely it is not logical to assume that the Torah said that the bird should be sent away in a matter where it will create a stumbling block (*for if this would be the bird that is forbidden, someone might mistakenly find this bird and eat it, for there is no way to recognize that this was a metzora bird*). Rather it could serve for the one that must be slaughtered.

Rava said: The expression 'kosher' serves to exclude that one may not use this bird before it is sent away so as to pair it with another bird (*to be used to send away for the purification process*) of another *metzora*.

Rav Pappa said: The expression 'kosher' serves to exclude birds that were obtained in exchange for an idol, for it is written: *and you will become banned like it*; this teaches us that something which was exchanged for an item that was used for idolatry is just like it.

The *Gemora* asks: But for which bird? It cannot be for the one that must be sent away, for surely it is not logical to assume that the Torah said that the bird should be sent away in a matter where it will create a stumbling block (*for if this would be the bird that is forbidden, someone might mistakenly find this bird and eat it, for there is no way to recognize that this was a metzora bird*). Rather it could serve for the one that must be slaughtered.

Ravina said: We are dealing here with a bird that had killed a man (*and the expression 'kosher' comes to exclude this case*).

The *Gemora* asks: But what are the circumstances? If it had already been condemned to death, then it must be put to death (*and can obviously not be slaughtered or*

sent away); we must therefore say that it had not yet been condemned. But for which one of the *metzora's* birds might this be used? It cannot be for the one that must be sent away, for surely it must be brought to the *Beis Din* in order to carry into effect the verse: So shall you remove the evil from your midst!

Rather, the *Gemora* answers, it could serve for the one that must be slaughtered. (140a)

Sending the Bird Away

The *Mishna* had stated: If either a non-kosher bird is found sitting on the eggs of a kosher bird, or a kosher bird is found sitting on the eggs of a non-kosher bird, one is exempt from sending it away.

Rav Kahana explained that although the kosher bird is indeed a *tzipor* (and the *mitzvah* should apply), it is written: and the young you may take for yourself; for yourself, but not for your dogs (and since the eggs are non-kosher, the *mitzvah* does not apply).

The *Gemora* notes that Rav Kahana said this In connection with the following *braisa*: If the mother bird is *tereifah*, one is still bound to send it away; if the young ones are *tereifah*, one is not bound to send it away. This is because they cannot be taken only for one's dogs.

The *Gemora* asks: But should we not compare a *tereifah* mother to the *tereifah* chicks, and say that just as in the case of *tereifah* chicks, one is not bound to send it away, so too in the case of a *tereifah* mother, one is not bound to send it away?

The *Gemora* answers: If that were so, then the teaching that the term *tzipor* excludes a non-kosher mother bird is superfluous.

The *Gemora* asks: But it has been taught in a *braisa*: Where the mother of chicks that are *tereifah* - one is bound to send it away!?

Abaye answered: It is to be explained as follows: Where the mother of chicks is *tereifah*, one is bound to let it go.

Rav Hoshaya inquired: What is the law if a man put his hand into a nest and cut through the lesser part of the pipes (of the chicks)? Should we say that since if he were to leave them as is, they would become *tereifah*, the rule 'You may take for yourself, but not for your dog' applies (and the *mitzvah* of sending away would not apply), or rather, since it is within his power to finish cutting (and then the chicks will be fit for consumption), we still say of them, 'You may take for yourself,' and he is therefore bound to send the mother away? The *Gemora* leaves this question unresolved.

Rabbi Yirmiyah inquired: Would a cloth be regarded as an interposition (between the mother and the eggs) or not? Would (loose) feathers constitute an interposition or not? Would infertile eggs be an interposition or not? What if there were two layers of eggs, one above the other? What if the male bird was upon the eggs and the mother was upon the male? The *Gemora* leaves these questions unresolved.

Rabbi Zeira inquired: What is the law if a dove was sitting on a *tasil's* eggs (a kosher bird, similar to a dove), or if a *tasil* was sitting on the eggs of a dove?

Abaye said: This can be proven from our *Mishna*: If a non-kosher bird was sitting on the eggs of a kosher bird, or if a kosher bird was sitting on the eggs of a non-kosher bird, one is not bound to send it away. It follows, does it not, that if a kosher bird was sitting upon the eggs of another kosher bird, one is bound to send it away?

The *Gemora* rejects the proof, for perhaps this is so only with a partridge (*whose nature is to sit on the eggs of another*).

The *Mishna* had stated: As to a male partridge, Rabbi Eliezer says that one is bound to send it away, but the Sages say that one is not bound.

Rabbi Avahu said: What is Rabbi Eliezer's reason? The *Gemora* cites an analogy through similar Scriptural expressions which teach us that the male partridge is subject to the same laws as the natural mother bird.

Rabbi Elozar said: They differ only with regard to a male partridge, but as for a female partridge (*which is sitting upon eggs of a different species*), all agree that one is bound to send it away.

The *Gemora* asks: Is not this obvious? Doesn't the *Mishna* expressly say 'a male partridge'?

The *Gemora* answers: One might have thought that even the female partridge the Rabbis exempt (*from sending away*), but the reason why the male partridge was stated (*in the Mishna*) was to demonstrate the extent of Rabbi Eliezer's view; we are therefore taught that it is not so.

Rabbi Elozar also said: They differ only with regard to a male partridge, but as for the male of any other type of bird, all agree that one is exempt from sending it away.

The *Gemora* asks: Is not this obvious? Doesn't the *Mishna* expressly say 'a male partridge'?

The *Gemora* answers: One might have thought that even the male of any other bird Rabbi Eliezer declares one bound to send it away, but the reason why the male partridge was stated was to demonstrate the extent of the Rabbis' view; we are therefore taught that it is not so.

The *Gemora* notes that a *braisa* was taught to this effect: The male of any other bird one is not bound to send away; as to a male partridge, Rabbi Eliezer declares one bound to send it away, but the Sages say one is not bound. (140a – 140b)

DAILY MASHAL

Why is *Shiluach HaKen* Called an Easy Mitzvah?

The Gemara defines *shiluach haken* as an "easy mitzvah" as the monetary loss therein involved – the cost of a pigeon – is very slight. Are there no other mitzvos with a small cost? The Gerer Rebbe zt"l, author of *Imrei Emes*, would say: The mitzvah of *shiluach haken* needs no preparation – "if you come across a nest" – therefore it's an easy mitzvah because preparing for a mitzvah is a hard task (cited in *She'arim Hametzuyanim*, p. 624).