



Volume 5. Issue 20

Sending Away the Mother Bird

The final *perek* in *Masechet Chulin* deals with the laws of sending away a mother bird thereupon taking her eggs. The source for this ruling can be found in this week's *parsha* (*Devarim* 22:6-7).

If a bird's nest happens to be before you on the road...and the mother is roosting on the young birds or the eggs, you shall not take the mother with the young. You shall surely send away the mother and take the young for yourself.

The *Chovat Yair* (67) deals with an interesting question on this *mitzvah*. Is the *mitzvah* of sending away a *chiyuv* on a person *l'chatchila* i.e. if one sees a mother bird nesting on eggs, does he have an obligation to send the bird away (even if he does not require the eggs). Alternatively, do we say that this *mitzvah* only applies when one has a want or need for the eggs. It seems from the answer of the *Chovat Yair* that it is an obligation to send away the mother bird and take the eggs, even in a case where you do not have a need or use for them. This answer also fits with the literal meaning of the *pasuk* in *Devarim* ("shaleach tishalach").

The *Torah Temimah* disagrees with the *Chovat Yair*. He mentions that the whole purpose behind the *mitzvah* of sending away the mother bird is to teach us not to be cruel. The *Torah Temimah* maintains that it is of the utmost cruelty, to take a young chick or egg away from its mother right in front of her. Indeed, one should not be taking these chicks from the mother at all. However at the end of the day all of creation was only created for Man. Man is given permission to undertake practices that may seem 'cruel' but have been allowed by the *Torah*. A perfect example of this is *shechita*. Although, slaughtering an animal could be seen as a 'cruel' and inhumane practice, since all was created for Man, the *Torah* provided him a specific way in which to slaughter animals. In the same vein, the *Torah* allowed Man to capture chicks and eggs in a certain way, a way which demonstrates a heightened sensitivity to the mother. However, this would only be

the case if one actually wanted to use the offspring for a purpose – to send the mother bird away with no use for the eggs would be cruelty – the exact opposite of the *mitzvah* one was trying to fulfil!

The *Mishna* in *Brachot* (33b) mentions that if a chazzan was leading davening an mentioned "[As far as] the bird's nest your mercy (*rachamim*) reaches" – we remove him from leading the congregation. *Rashi* there states the reason he cannot be a chazzan is because his words imply that the *mitzvot* of *Hashem* were ordained solely in order to be merciful – however in reality all the laws of *Hashem* are decrees (*gezeirot*).

This *Gemara* poses a challenge to the opinion of the *Torah Temimah*. It seems from the *Gemara* in *Brachot* that the reason behind sending away the mother bird is not in order to avoid cruelty, but rather because all the laws of *Hakodesh Baruch Hu* is a decree. Therefore, it is conceivable that the opinion of the *Chovat Yair* should be accepted as it would be a decree from *Hashem* to send away the mother bird even if one did not need the eggs.

The *Torah Temimah* however, answers the challenge. He states that this *Gemara* is talking about our attitude to the performance of the *mitzvot*. It is not enough for one to do a *mitzvah* if one sees a purpose and reason behind the fulfilment. Having this type of attitude can lead one to over rationalise the reasons behind the *mitzvah* and then come to a transgression. This attitude was demonstrated to a degree by *Shlomo HaMelech* who rationalised that the reasons behind the limitations of wealth, wives and horses for Kings did not apply to him (see *Sanhedrin* 21b). The *Torah Temimah* leads us to understand that the real motivation required for doing every *mitzvah* is solely because it is a decree from *Hashem*. Even if one can see a purpose and reason behind a *mitzvah*, the ultimate fulfilment is to observe each and every *mitzvah* as if it was a *gezeirah*.

Yehuda Gottlieb

Revision Questions

חולין י"ב:א-ה'

- Does the *mitzvah* of *shiluach ha'ken* apply to *kodshim*? (י"ב:א')
- To which birds does this *mitzvah* apply? (י"ב:א')
- To which of the following cases does *shiluach ha'ken* apply:
 - A non-kosher bird sitting on a kosher bird's eggs?
 - A kosher bird sitting on a non-kosher bird's eggs?
 - A male bird sitting on eggs? (י"ב:ב')
 - If there is only one egg?
 - If the eggs will not produce chicks? (י"ב:ג')
- Once the eggs have hatched till when does the *mitzvah* apply? (י"ב:ג')
- What is the law of the mother bird returns? (י"ב:ג')
- Can one take the mother and shoo away the children? (י"ב:ג')
- What is the law if the eggs were taken, returned to the nest and the mother bird returned? (י"ב:ג')
- Explain the debate regarding the punishment for one that takes mother bird. (י"ב:ד')
- Can one take the mother bird for the purpose of purifying the *metzarah*? (י"ב:ה')
- What does the *Mishnah* learn from this *mitzvah* and its reward? (י"ב:ה')

בכורות א' א-ב' ב'

- List the five way, through dealing with a *Nochri*, one can be exempt from *peter chamor*? (From where is this law learnt?) (א' א')
- Are *Levi'im* obligated in *peter chamor*? (א' א')
- What principle does the *Mishnah* lay down for a kosher animal that gives birth to what appears to be a non-kosher animal and vice versa? (א' ב')
- Does that principle apply to the law of *peter chamor*? (א' ב')
- What is the law if a donkey's first birth is: (א' ג')
 - Twin males?
 - A male and female?
- What is the law the product from two donkeys' first births was a total of a male and female? (א' ג')
- Regarding the previous case, what if one of the donkeys a had given birth before? (א' ד')
- What animal is used to redeem a *peter chamor*? (א' ד')
- If this animal has a *mum* can it be used? (א' ד')
- If this animal is slaughtered can it be used? (א' ה')
- Explain the debate if the animal that was used for *peter chamor* was redeemed. (א' ו')
- Explain the debate if the *peter chamor* died after it was redeemed but before the *seh* was given to the *kohen*. (א' ו')
- What must one do if they do not wish to redeem the *peter chamor*? (א' ו')
- Which option takes precedence? (א' ו')
- Which three other *mitzvot* also have "options" and what is the precedence? (א' ו')
- List the five way, through dealing with a *Nochri*, one can be exempt from *bechor*? (From where is this law learnt?) (א' ב')
- Are *Levi'im* obligated in *bechor*? (א' ב')
- What are the differences if an animal had a blemish, was sanctified and then redeemed or if an animal was sanctified, then developed a blemish and was then redeemed? (List seven.) (א' ב'-ג')
- Which cases are the exception to the previous question? (א' ב')

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Sunday -Thursday
Between mincha & ma'ariv
Mizrachi Shul

Friday & Shabbat
10 minutes before mincha
Mizrachi Shul

Audio Shiurim on-line!

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
14 th September י"ד אלול	15 th September ט"ו אלול	16 th September ט"ז אלול	17 th September י"ז אלול	18 th September י"ח אלול	19 th September י"ט אלול	20 th September כ' אלול
Bechorot 2:3-4	Bechorot 2:5-6	Bechorot 2:7-8	Bechorot 2:9-3:1	Bechorot 3:2-3	Bechorot 3:4-4:1	Bechorot 4:2-3

