



צד 4 – #1 Summary Shiur

Please note this is not a replacement for the shiur or one's own notes

גדר מלאכת צד

חקירה - is trapping taking away the freedom of an animal or is it bringing it into the possession/control of a person?

נפקא מינה:

- A person who throws a rock (a non-מוקצה type) into the sea and it lands on a fish and traps it. On the one hand- the fish has lost its' freedom; on the other hand, it is inaccessible and is not in possession/control of the person.
- Based on תוס' רי"ד - a slow moving animal e.g. a snail or turtle has no problem of צד. We see from here that צד is not taking the freedom away from an animal as here one clearly takes away the animal's own freedom, rather it is bringing it into the possession/ control of a person. Since it is easy to take the animal, it is considered already in one's possession and therefore there is no צד.

This חקירה is a מחלוקת in the אחרונים:

חזון איש - says like the first approach. צד is defined as bringing an animal into a constricted place to take away its freedom. Seemingly this would disagree with תוס' רי"ד.

רב בבבבבב שליט"ה - the purpose of צד in the משכן was to bring the animal into ones control. Brings another proof from the טל אגלי where he says that trapping a dead fish is considered צד, therefore it must be that the טל אגלי follows the second approach of the חקירה that trapping is bringing into one's control.

ר' אלישיב זצ"ל - It is אסור to trap a slow moving animal. Brings a proof from רבינו ירוחם. Seemingly ר' אלישיב זצ"ל holds like the חזון איש that trapping is taking away the freedom of an animal.

ר' בבבבבב - Paskens that צד is taking the animal into the possession/control of the person.

Freeing a Trapped Animal

ערוך השולחן - freeing a trapped animal is going to be אסור as it is מקלקל.

משנה ברורה - one may free an animal from ones house or a trap on שבת so long as one does not touch the animal (מוקצה). Disagrees with the ערוך השולחן.

משנה ברורה - ר' שלמה זלמן זצ"ל - agrees with the

גדר איסור דאורייתא ודרבנן

משנה שבת ק: - חייב if one traps a bird in a tower or a deer in a house one is חייב. ר' יהודה - adds a case of a deer in a חצר, גינה, ברין or חצר. חכמים - adds a case of a deer in a

רשב"ג - anything that does not require more trapping is going to be פטור, if it does not require more trapping it will be פטור.

רשב"ג like Paskens - **גמ'**

גמ' says that only enclosing an animal in a בבר קטן would be an איסור דאורייתא whereas trapping in a בבר גדול would be an איסור דרבנן.

The **גמ'** gives 3 definitions of a בבר קטן:

- If one can grab the animal in one chasing.
- If the walls were to collapse and fall on the animal.
- If there are no hiding places e.g. cracks and crevices.

ש"ע - One who traps a ציפור דרוור in a tower where it is 'trapped' or other birds or deer in a place where they are trapped - חייב. If they are not 'trapped' - אסור אבל אסור.

משנה ברורה - 'trapped' means that one can trap it in one chasing and one does need to rest between each chasing.

חוט שני - seemingly, there are only two levels here: חייב and פטור. At what point do we say that it is considered מדרבנן - צד מדרבנן - what if a person enclosed an animal in a city? Seemingly this is not trapped at all. Therefore, the איסור דרבנן of trapping is only where there is some level of confinement of the animal and the animal feels this, as well as a שליטה of the person over the animal.

If the animal is now in a place that is considered trapped to the extent of an איסור דרבנן and one moves the animal to a place that would, if initially trapped there, be considered trapping מדאורייתא, here it will be an איסור דאורייתא to move it there.

However, if the animal is in a place that is considered a בבר קטן and one wants to move it to a more restricted place it would not be a problem as it is already trapped.

ר' שלמה זלמן זצ"ל - a deer that is in a בבר גדול and one wants to restrict the space by bringing a fence which will make the area into a smaller בבר גדול and by doing so one would restrict the movement of the animal, it is still מותר since it is still not considered trapped.

ר' ניסן קרליץ זצ"ל - Argues and says this is אסור.

חיי אדם - One cannot close a window where it will be trapping an animal in the house. However, if one wants to close the window to protect one from the cold, one can close it. This applies even though it is פסיק רישיה באיסור דרבנן that we usually say is אסור, here in a scenario of צער (to protect one from cold) it is מותר.

משנה ברורה - Brings this Halocha.

Perhaps the source of the חיי אדם is the **גמ' שבת קז.** מפיס מורסא of popping a pimple - it is מותר even though it is a פסיק רישיה that one will make an opening. Usually we say that a אסור is פסיק רישיה באיסור דרבנן. The reason it is מותר here is because it is causing צער.

סומא, ישן, חיגר, זקן

גמ' שבת קז: Trapping a sleeping deer or a blind deer - חייב. Trapping a crippled, old or sick deer - פטור.

The first category is חייב because they will flee when touched, whereas the second category will not flee when touched.

ש"ע - Paskens like this.

משנה ברורה - if one finds a rabbit sick on the side of the road and cannot move, one cannot take it in as it is still מדרבנן.

Seemingly we see that even though the animal is in one's control, as it cannot run away due to its current state, it is still an איסור דרבנן. According to those who say that צד is defined by bringing an animal into one's possession or control, this should be מותר.

ר' שלמה זלמן זצ"ל - says that there is still an איסור דרבנן in these cases because we are dealing with a deer or similar that normally runs away. However, in cases where the animal cannot run away even in a normal state, e.g. an ant or a turtle, it would be מותר.

רמב"ם - one who sets ones dogs to chase animals and the dog assists in capturing the animal - it is an איסור דאורייתא.

רמ"א - if one sets a dog on animal to catch it one is חייב.

מג"א - from מדיק that it is not always an איסור דאורייתא. Only where one actively assists in trapping the animal will it be a דאורייתא, however if one sends the dog alone it will only be an איסור דרבנן.

משנה ברורה - מ"א brings the.

רב בבנצהל שליט"ה - adds that there may be other problems aside for צד e.g being עובר the עשה of שביתת בהמתו or the לאו of מחמר that one has to be aware of.

צד בימות החול

רמ"א - even trapping animals during the week (hunting) is a problem of מושב לצים.

נודע ביהודה - Asks: when it comes to hunting what about the problems of בעלי חיים בעל, צער בעלי חיים, תשחית?

- anything that is for the benefit of a person is not צער בעלי חיים as this only applies when it is done for no purpose. Also, צער בעלי חיים only applies where one does not kill the animal.
- Only רשעים were hunters but the sons of יעקב ויעקב are not hunters.
- Quotes the רמ"א that says one does not wish someone well for getting a new piece of clothing if they are made from animal products as an animal had to die to make

the item, and it says that Hashem has רחמים on all animals. Disagrees with the רמ"א and says it is a weak reason not to do it, however, many follow this מנהג.

- Ends off by saying remarking that it is inappropriate for a Jew fill his time with such a pastime, it is clearly not a Jewish activity. It also gives a פתחון פה to the סטן (עיין הרע).

ר' שלמה זלמן - There is no איסור דאורייתא of צער בעלי חיים when killing an animal, however trapping animals for sport is not considered אדם צורך אדם and is therefore אסור.

Fishing for sport - seemingly both the נודע ביהודה and ר' שלמה זלמן would say it is אסור. However, if one was doing it to eat the fish and occasionally it is too small etc. and one throws it back, such an activity would be מותר.