Chullin 139 – Good Morning Raboisai

The Perek of Shiluach HaKen

1️⃣ Shiluach HaKen Applies Everywhere

👉 The new Mishnah teaches:

Shiluach HaKen applies:

- In Eretz Yisrael and Chutz La'Aretz.
- With or without the Beis Hamikdash.
- To Chullin birds, but not Mukdashim.

Unlike some land-related Mitzvos:

- Shiluach HaKen is an obligation on the person and is not dependent on Eretz Yisrael.

2️⃣ Shiluach HaKen Must Be "Eino Mezuman"

👉 A major condition of Shiluach HaKen is:

- The nest must not be prepared and readily available to you.

It must be something:

- You happen upon.

Therefore, birds that are permanently yours and nesting in your house are generally:

- Patur from Shiluach HaKen.

But birds which escaped and are no longer under your control can become:

- Eino Mezuman.

Kisui HaDam vs Shiluach HaKen

3️⃣ Kisui HaDam Is Broader

👉 The Mishnah compares Shiluach HaKen to Kisui HaDam.

Kisui HaDam applies:

- To a Chayah and a bird.
- Whether Mezuman or Eino Mezuman.

Shiluach HaKen is narrower:

- Only birds.
- Only Eino Mezuman.

4️⃣ Birds in an Orchard vs House

👉 If birds escaped and later made a nest:

- In an orchard – they may qualify for Shiluach HaKen.

But birds nesting:

- In one's house

or certain pigeons which regularly return to their established home:

- Are considered Mezuman and are Patur.

Kosher Birds and Eggs

5️⃣ The Mother and Young Must Qualify

👉 Shiluach HaKen does not apply to:

- A non-kosher bird.

If:

- A non-kosher bird is sitting on kosher eggs

or:

- A kosher bird is sitting on non-kosher eggs

there is no Shiluach HaKen.

6️⃣ The Korei

👉 The Mishnah discusses the Korei – described in the transcript as a partridge.

Other birds may:

- Lay their eggs in its nest

and the Korei will sit on them.

If a female Korei is sitting on the eggs:

- Shiluach HaKen can apply.

If it is a male:

- Rebbe Eliezer says Chayav.
- The Chachamim say Patur.

Why Do All These Mishnayos Use the Same Wording?

7️⃣ The Familiar Opening

👉 Several recent Perakim use virtually the same language:

- Applies in Eretz Yisrael and Chutz La'Aretz.
- Before and after the Beis Hamikdash.
- Chullin and Mukdashim.

This wording appeared regarding:

- Gid HaNasheh
- Kisui HaDam
- Oso V'Es Beno
- Reishis HaGez
- Shiluach HaKen.

The Gemara explains:

- Not every phrase is necessary in every Mishnah.

Once the Tanna uses this structure:

- It is repeated consistently.

8️⃣ Where the Wording Is Necessary

👉 For Reishis HaGez, saying:

- Eretz Yisrael and Chutz La'Aretz

is important because:

- Rebbe Ilai holds Reishis HaGez applies only in Eretz Yisrael.

For Oso V'Es Beno, saying it applies:

- Even without the Beis Hamikdash

is important because its Pesukim appear:

- In the context of Korbanos.

The Mishnah teaches:

- It is not limited to Korbanos.

9️⃣ Gid HaNasheh of Mukdashim

👉 By Gid HaNasheh it seems obvious:

Making an animal Hekdesh should not remove:

- The Issur of Gid HaNasheh.

But there can be a case where:

- The mother was already Hekdesh while pregnant
- And the Gid developed only afterward.

The Mishnah teaches that:

- Gid HaNasheh still applies.

The broader point remains:

- Some phrases are essential in one Mishnah and repeated in the others for consistency.

Why Is Hekdesh Exempt From Shiluach HaKen?

🔟 "Shale'ach Teshalach"

👉 The Mishnah says Shiluach HaKen does not apply to:

- Mukdashim.

The Gemara discusses the source from:

- Shale'ach Teshalach.

There are situations where another Torah obligation takes priority and:

- You do not perform Shiluach HaKen.

1️⃣1️⃣ A Bird That Killed a Person

👉 One example discussed is:

- A bird that killed a person.

Such a bird may be subject to:

- U'viarta HaRa MiKirbecha – removing the evil.

Therefore, instead of sending it away:

- The required Din must be carried out.

How Did the Bird Become Hekdesh?

1️⃣2️⃣ The Basic Problem

👉 The Gemara now asks a fundamental question:

How can we have a case of:

- Hekdesh requiring an exemption from Shiluach HaKen?

If the nest was already:

- Yours

then it was Mezuman and there was never a Chiyuv of Shiluach HaKen.

If it was:

- Not yours

how could you make it Hekdesh?

A person cannot normally be Makdish:

- Something that is not his.

1️⃣3️⃣ Picking Up the Young Doesn't Work

👉 Perhaps he found a nest, picked up the young:

- Made them Hekdesh
- Returned them

- And the mother came back.

But once he acquired them:

- The nest became Mezuman.

Therefore:

- There would be no Shiluach HaKen even without the Hekdesh.

1️⃣4️⃣ Making the Mother Hekdesh

👉 Perhaps he picked up:

- The mother

made her Hekdesh and then:

- She returned to the nest.

But the Chiyuv of Shiluach HaKen had already existed:

- Before the Hekdesh.

Why should the later Hekdesh remove:

- An existing Mitzvah?

1️⃣5️⃣ Proof From Kisui HaDam

👉 A similar rule exists by Kisui HaDam.

If someone shechts a Chayah:

- The Chiyuv to cover the blood immediately takes effect.

If he then makes the blood Hekdesh:

- The existing Chiyuv does not disappear.

So too:

- A pre-existing Chiyuv of Shiluach HaKen should not simply disappear through Hekdesh.

Rav's Answer – The Birds Rebelled

1️⃣6️⃣ Hekdesh Birds That Flew Away

👉 Rav establishes the case as follows:

A person owned birds and made them:

- Hekdesh for the Mizbe'ach.

Later:

- They rebelled and flew away.

Normally, once birds escape and are no longer controlled:

- They can become Eino Mezuman.

However:

- Their Kedushas HaGuf remains.

Therefore, when they are later found:

- Shiluach HaKen does not apply because they are still Hekdesh.

Shmuel – Kedushas Damim

1️⃣7️⃣ Even Bedek HaBayis

👉 Shmuel gives a similar case, but with:

- Kedushas Damim.

The bird was dedicated for:

- Bedek HaBayis

rather than as an actual Korban.

It then:

- Flew away.

According to Shmuel:

- The Kedushah remains.

Therefore:

- Shiluach HaKen still does not apply.

Does Kedushas Damim Disappear?

1️⃣8️⃣ Rav vs Shmuel

👉 Rav distinguishes between:

- Kedushas HaGuf
- Kedushas Damim.

Kedushas HaGuf:

- Does not disappear merely because the animal escapes.

But Kedushas Damim is weaker, and Rav holds that when the bird rebels and escapes:

- Its Kedushah can fall away.

Shmuel disagrees:

- Even Kedushas Damim remains.

1️⃣9️⃣ “LaHashem HaAretz U’Melo’ah”

👉 Shmuel's reasoning:

The bird may have disappeared:

- From you.

But it has not disappeared:

- From Hashem.

Wherever it is in the world:

- It remains within Hashem's domain.

Therefore:

- Its Kedushah remains.

Rebbe Yochanan and Reish Lakish

2️⃣0️⃣ Lost Hekdesh Money

👉 The Gemara brings a parallel Machlokes involving:

- Money designated for Bedek HaBayis

which was then:

- Lost or stolen.

The question is whether the donor must:

- Replace the money.

This seems to contradict positions attributed to:

- Rebbe Yochanan and Reish Lakish

about whether lost Hekdesh is still considered:

- Present in Hashem's possession.

2️⃣1️⃣ Reish Lakish Retracted

👉 The contradiction in Reish Lakish is resolved:

He later heard the principle from:

- Rebbe Yochanan

that wherever the Hekdesh is:

- It remains in Hashem's domain.

Reish Lakish therefore:

- Retracted his earlier position.

Neder vs Nedavah

2️⃣2️⃣ “Alai” vs “Zu”

👉 To understand Rebbe Yochanan, the Gemara distinguishes between:

- Neder
- Nedavah.

If someone says:

- Harei Alai Olah – it is upon me to bring an Olah

the obligation rests:

- Personally upon him.

If that animal is lost:

- He must replace it.

But if he says:

- Harei Zu Olah – this animal is an Olah

the obligation is attached specifically to:

- That animal.

If it is lost or dies:

- He does not necessarily have to replace it.

2️⃣3️⃣ Bedek HaBayis Is Different

👉 The Gemara explores whether this distinction works the same way for:

- Kedushas Damim and Bedek HaBayis.

With a Korban:

- "Alai" means he undertook to actually bring the Korban.

But with monetary Hekdesh:

- He has already designated the particular property.

If that property still exists somewhere:

- It may still belong to Hekdesh.

2️⃣4️⃣ If the Property Is Destroyed

👉 The Gemara discusses someone who dedicates:

- An ox
- Or a house.

If the designated item is merely:

- Lost

it may still exist somewhere in the world.

But if:

- The ox dies
- Or the house collapses and loses its value

then the designated property:

- No longer exists in a meaningful form.

That can create:

- A replacement obligation.

Erchin

2️⃣5️⃣ A New Comparison

👉 Rav Huna discusses:

- Erchin.

A person can pledge the Torah-fixed value of:

- Himself
- Or another person.

The amount depends on:

- Age
- And whether the person is male or female.

Once the money is designated:

- What happens if it is lost?

2️⃣6️⃣ Is “Alai” Necessary?

👉 The Gemara initially suggests:

Perhaps Erchin is different because one says:

- Erki Alai – my value is upon me.

But the Gemara challenges this:

One could phrase the commitment without:

- Explicitly saying Alai.

Therefore:

- The wording alone cannot explain the liability.

Maaser Sheni

2️⃣7️⃣ Redeeming Maaser Sheni

👉 The Gemara compares this to:

- Maaser Sheni.

A person who cannot easily bring his Maaser Sheni produce to Yerushalayim may:

- Redeem it onto money.

The Kedushah transfers:

- From the produce to the money.

He then brings the money to Yerushalayim and uses it for:

- Food eaten there with Kedushas Maaser Sheni.

2️⃣8️⃣ Lost Maaser Sheni Money

👉 If the Maaser Sheni money is:

- Lost or stolen

the owner does not simply have:

- The same personal replacement obligation.

This appears to support the idea that designated Kedushah money:

- Can be different from a personal Neder.

But Erchin ultimately has:

- A special rule.

2️⃣9️⃣ Erchin Remains the Person's Responsibility

👉 The Gemara concludes:

By Erchin:

- Everyone agrees the person remains responsible.

Why?

Because the Torah teaches that the obligation remains on him:

- Until the money reaches the Gizbar – the treasurer of Hekdesh.

Therefore, if the Erchin money is lost before reaching the Gizbar:

- He must replace it.

📌 **Key Chazarah**

- Shiluach HaKen applies in Eretz Yisrael and Chutz La'Aretz and even without the Beis Hamikdash.
- It applies only to Eino Mezuman – a nest that is not already prepared and under one's control.
- Kisui HaDam is broader: it applies to Chayah and birds and to both Mezuman and Eino Mezuman.
- Shiluach HaKen applies only to qualifying kosher birds and young.
- Rebbe Eliezer and the Chachamim disagree regarding a male Korei sitting on eggs.
- The repeated wording across the recent Mishnayos is sometimes necessary in one Perek and repeated in the others for consistency.
- The Gemara asks how a Shiluach HaKen bird could ever become Hekdesh without already becoming Mezuman.
- Rav's case is birds with Kedushas HaGuf that escaped; their Kedushah remains.
- Shmuel says even Kedushas Damim remains after the bird escapes.
- The principle is that although the object is lost to you, it is still somewhere in Hashem's world.
- A Neder of "Alai" creates personal responsibility; a Nedavah of "Zu" attaches the obligation to the particular object.
- The Gemara applies these ideas to lost Hekdesh money, an ox or house dedicated to Hekdesh, and Maaser Sheni.
- By Erchin, the person remains responsible until the money actually reaches the Gizbar.

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