30.12.3 141a (משנה ג2) → 142a (סיום המסכת)

- I משנה גב: obligation of sending the bird away
  - a Even if: the bird returns 4 or 5 times must send away, per v. 2 (שלח תשלח)
    - i challenge (student to שלח): why isn't שלח read to send away once and twice?
    - ii answer: שלח alone implies sending away multiple times; תשלח extends to sending in spite of potential for דבר מצוה
      - 1 challenge: without חשלת, why would we have thought that we don't send if the אם will be used for מצוה?
        - (a) explanation: the potential use is מ"ע, but sending is a מ"ע and ה"ל no דחייה possible
        - (b) answer1: if he already took the mother there is עשה (טהרת מצורע) vs. שלוח האם) vs. (שלוח האם) עשה
          - (i) note: this answer is only valid if we accept מכות טו) קיימו ולא קיימו ולא קיימו i.e. the ל"ת is violated when he didn't send it away; but if we accept ביטלו ולא ביטלו (ibid) the ל"ת hasn't been violated until he killed it or broke its wings still עשה ול"ת vs. עשה ול"ת
          - (ii) furthermore: according to משנה ד) there isn't even an עשה here
        - (c) answer2 (מד בר ד' אשי): if he took the mother in order to send her away only עשה vs. עשה at this point
        - (d) question: why would we have thought to prefer עשה סורת מצורע over עשה over עשה?
          - (i) *answer*: since שלום בית may not have relations (v. 3), it is a matter of שלום בית, for which even 'ה's Name is erased (סוטה) שלוח the שהרת מצורע othe שהרת מצורע שהה שלוח האם would trump קמ"ל שלוח האם
  - b  $\mathit{If}$ : he intends to send away the chicks and keep the mother must still send her away, per שלח תשלח את האם
  - c But if: he takes away the chicks and then returns them, after which she returns exempt from שילוח
- II משנה ד dispute מיהודה/חכמים once he takes the mother
  - a מכות if he takes the mother, gets מכות and doesn't send her away
  - b חכמים. in that case, he sends her away and doesn't get מכות
    - i Reason: any ל"ת that has a מכות attached (as a response "לאו הניתק לעשה") generates no מכות
  - analysis: ר' יהודה clarification as to ר' אבא בר ממל's opinion
    - i lemma1: מכות holds, as a matter of principle, that לאו הניתק לעשה is not an exemption from מכות
    - i \_\_lemma2: ר"י generally holds that מעיקרא ←שלח, but here is an exception due to מעיקרא לישלח
      - 1 proposed resolution (ראב"מ: ruled that מכות neceive מכות, in spite of vv. 4-5 (דאב"מ: "truled that או הניתק לעשה לוקין עליו
        - (a) challenge (ברייתא that ברייתא did not come from the schools of ר' חייא ור' אושיעא unreliable
          - (i) rather: ברייתא from בריית taking שכחה or cutting פאה (vv. 6-7) generates ברייתא → להנל"ע לוקין עליו
          - (ii) rejection: perhaps that is due to wording there מעיקרא implies מעיקרא (שלח::)
      - 2 resolution (ר"נינא לר"א) interprets v. 8 as teaching that there are no מכות as it is לאו הניתק לעשה
        - (a) conclusion: שלח" reason in our שלח" is that "שלח" implies ab initio.
        - (b) note (א"ז אידי לר"א): the wording of our מעיקרא משנה supports this − לוקה ואינו משלח, implying that שלח
          - (i) rejection: perhaps it just means that sending it away wouldn't exempt him from מכות

## III Miscellaneous rules of שילוח

- a process of "shooing": רב יהודה must be out of his hands
  - i רב הונא. hold it by the legs (per v. 9
  - ii דב יהודה by the wings which are the bird's "legs"
- b story: man cut bird's wing (so it couldn't fly)- רב יהודה ordered that he be given מכות then heal the bird and shoo
  - i challenge: this doesn't follow מכות (מכות מהיה ה' יהודה to send after getting מכות) חר' יהודה to send after getting מלות
  - ii answer: מכות מרדות דרבנן were
- c story: man asked רבא about the identity of a bird, which was evidently רבא; שהור surmised that he asked because he was unsure if one egg constituted an obligation to send (it does); after which רבא himself trapped and caught the bird
  - i challenge: this might arouse suspicion (of inappropriate behavior on רבא's part)
  - ii answer: he did it in a roundabout way so that no one would sense it
- d שנום דרכי שלום doves of a dove-cote must be sent, but one who steals them is liable משום דרכי
  - i note: if we would accept חצר 'י'סי בר חנינא makes a קנין even without the owner's awareness they should be classified as פטור כל מזומן
    - 1 קנין the egg generates חיוב שלוח when a majority is out but the קנין doesn't happen until it falls to the floor (of the nest)
      - (a) question: if so, why is there איסור גזל
      - (b) answer: that refers to the mother
      - (c) alternatively: the reference is to the eggs but the owner has intent of קנין once a majority is laid
    - 2 *however*: now that ב' is quoted by רב יהודה that a man may not take possession of the eggs before sending the mother away (per the sequence in the פסוק) we can solve חצר ;ר' יוסי בר חנינא can't acquire what owner cannot
      - (a) challenge: then why is there an איסור גזל; if he already sent it away, there is full גזל; if not, he must shoo
        - (i) answer: when "thief" is קטן
        - (ii) challenge: קטן is not responsible for דרכי שלום
          - 1. answer: father is responsible, משום דרכי שלום, to return eggs
- e story: שמואל gave rights of pigeon eggs to שמואל ;רב יהודה instructed him to tap and raise nest to make קנין
  - i question: why not just suffice with קנין סודר; if it was מוקצה) concern) –identify the ones he wants for tomorrow
  - ii answer: they weren't yet laid and לוי hand't yet made a קנין; the advice was for לני to give to סודר to give to (ר"י of then use סודר)...

## IV משנה ה' Range of איסור

- a he may not: even take the bird for טהרת המצורע
- b homily: if אלוח הקן, which is such a "light" מצוה and costs nearly nothing, promises a great reward (v. 2)
  - i then: how much more so with serious and grave תורה of the תורה
- V מצוה homily every מצוה in the תורה which indicates reward for fulfillment next to it depends on תחיית המתים
  - a example (that יעקב 'n has evidently witnessed): if a father directed his son (פאו"א) v. 10) to climb up and send away a mother (v. 2) and bring the chicks back and he fell off the ladder on the way down and died his "long life" and "good days" must be in עולם הבא
    - i challenge: perhaps the boy was planning a sin at the time (and was therefore punished)
      - 1 answer: הקב"ה doesn't reckon such plans as actions
    - ii challenge: perhaps the boy was planning ע"ז which הקב"ה does reckon as action (v. 11)
      - 1 answer: if vv. 2, 10 were about this world, the מצוות should have protected him from מחשבה רעה
    - iii challenge: שלוחי מצוה said that שלוחי are protected from harm
      - 1 answer: he was on his way back from performing the מצוה (?)
      - 2 challenge: but שלוחי מצוה said that שלוחי are protected coming and going!
      - (a) answer: perhaps the ladder was weak, and if the damage is likely, we don't rely on שליחות מצוה (v. 12)
    - iv note: had אחר known this resolution he wouldn't have become an apostate
      - שלוח הקן background: either he saw an even like this (מאו"א) and the son died) or he saw שלוח הקן 'ז's tongue lying in the dung-heap (after being killed by Romans)
      - 2 he didn't understand: that the "long days" and "good life" is alluding to עולם שכולו ארוך, עולם שכולו טוב

## הדרן עלך מסכת חולין יהי רצון מלפניך יאו״א שייבנה בית המקדש במהרה בימינו ותן חלקנו בתורתך