



## Safek Muchan

The *Mishnah* (3:2) teaches that if one set traps for fish or animals prior to *yom tov*, they may not take the animals found in the traps on *yom tov* unless they are certain the animals were already caught prior to *yom tov*. We shall try to understand this *Mishnah*.

The *Gemara* (34a) explains that the *Chachamim* maintain that *safek muchan* – a doubt regarding whether something is *muktzeh* – is forbidden. In other words, anything one uses on *yom tov* must be *muchan* – designated for that purpose prior to *Yom Tov*. Consequently, if the animal was indeed trapped on *yom tov* it would be *muktzeh*. Even though we are not sure if that was indeed the case, it is still forbidden to take that animal.

The ruling in the *Mishnah* requires thought considering that *muktzeh* is a rabbinic prohibition. In general, we rule leniently when there is a doubt regarding a rabbinic prohibition. Why then does the *Mishnah* rule that the trapped animals, in this case of doubt, are *assur*?

The *Tosfot Yeshanim* explains that *safek muchan* is *assur* since *muktzeh* itself is treated more stringently and therefore treated like a *Torah* prohibition. Why would that be so?

The *Chazon Yechezkel* (1:7, *chiddushin*) cites the *Gemara* that explains that we treat *Yom Tov* more stringently than *Shabbat* by ruling like *R' Yehuda* that (all types) of *muktzeh* are forbidden. Why so? Since the punishment associated with its desecration is less severe than that of *Shabbat*, there is a risk that it will be treated flippantly and degraded. It follows then that since *muktzeh* itself was applied to “protect” *yom tov*, even a *safek muchan* is treated stringently.

The *Rashba* (34b, s.v. *safek*) however explains that we only rule stringently, when it relates to a *melacha* (like trapping). The *Rashba* (*Avodat HaKodesh* 5:1) explains that were it not the case, one runs the risk of also permitting a real *melacha*.

The *Rambam* (*Shevitat Yom Tov* 2:6) however rules that “all” *safek muchan* is prohibited. The *Magid Mishnah* explains that this means that doubts relating to any type of *muktzeh* are prohibited since it is a *davar she'yesh lo matirin*. In other words, the matter will eventually become permitted, so there is no reason to permit it now in this case of doubt.

The *Mishnah Berurah* (*Shaar HaTzion* 497:10) explains that a practical difference between these two opinions would be if, for example, the fish would spoil if one waited till after *Shabbat*. If the reason why we rule stringently in our *Mishnah* is because it is a *davar she'yesh lo matirin* then that reason no longer applies. If however it is simply because the *Chachamim* rule stringently in a case of *safek muchan*, then whether or not the fish or meat will spoil is not a consideration. The *Mishnah Berurah* rules that one can rely on the opinion that the reason is because it is a *davar she'yesh lo matirin*, in order to permit a case of *safek muchan* if it will spoil if left until after *Shabbat*.

Interestingly, the *Aruch HaShulchan* (YD 102:19) explains that even if the food will not spoil, but simply not taste as good, that would be reason enough to define the case as a *davar she'yesh lo matirin*.<sup>1</sup>

**Yisrael Bankier**

<sup>1</sup> The *Aruch HaShulchan* notes that the *Kreiti UPLEiti* maintain a different position, that food would have to substantial spoil for it not to be defined as a *davar she'ish lo matirin*.

The understanding above assumes that the reason why a *davar she'ish lo matirin* is forbidden, is because one can simply wait. The *Aruch HaShulchan* however explains (102:1) that there is another understanding. Regarding cases of mixtures that involve a *davar she'ish lo matirin*, the *Aruch HaShulchan* explains that *bitul* is based on the assumption that the

*heter* and *issur* are different from one another. In a case of *davar she'ish lo matirin* since they will soon be the same, they are not different enough to affect *bitul*. Whether it will spoil before the time it is *mutar* is irrelevant. According to that understanding, the *Aruch HaShulchan* explains that the *Chachamim* simply did not apply the stringency of *davar she'ish lo matirin* in those cases.

**Revision Questions**

ביצה ב' י' – ד' ה'

- Can a child walker be used on *Yom Tov* and why? (ב' י')
- Can one feed fish on *Yom Tov*? (א' ג')
- When can one “hunt” animals on *Yom Tov*? (א' ג')
- Can one take animals to slaughter that are found in hunting traps on *Yom Tov*? (ב' ג')
- What is the debate regarding slaughtering a gravely sick animal on *Yom Tov*? (ג' ג')
- What is the law regarding slaughtering a *b'chor* that fell into pit on *Yom Tov*? (ד' ג')
- What is the law regarding an animal that dies on *Yom Tov*? (ה' ג')
- How should a group divide shares in an animal that was slaughtered on *Yom Tov*? (ו' ג')
- In what manner is one allowed to sharpen a knife on *Yom Tov*? (ז' ג')
- In what manner does one ask for food from a storekeeper on *Yom Tov* and why? (Provide two options) (ח' ג')
- What are the restrictions on *Yom Tov*, placed on the manner one can carry:
  - Wine?
  - Produce? (א' ד')
  - Fire wood? (ב' ד')
- Explain the debate regarding a *karpaf* from which it is suitable to collect firewood. (ד' ב')
- In what manner can one chop firewood on *Yom Tov*? (ג' ד')
- Can one remove fruit from a store room that was sealed before *Yom Tov*, yet on *Yom Tov* was breached? (ג' ד')
- What does *R' Meir* add regarding the previous question? (ג' ד')
- Can one produce coals on *Yom Tov*? (ד' ד')
- Explain the debate regarding splitting a wick on *Yom Tov*? (ד' ד')
- What restrictions are placed on the manner in which one can clean out an oven on *Yom Tov*? (ה' ד')

**Shiurim**

**ONLINE SHIURIM**

*Yisrael Bankier*  
[mishnahyomit.com/shiurim](http://mishnahyomit.com/shiurim)

*Rabbi Reuven Spolter*  
[mishnah.co](http://mishnah.co)

*Rabbi Chaim Brown*  
[www.shemayisrael.com/mishna/](http://www.shemayisrael.com/mishna/)

*Rabbi E. Kornfeld*  
*Rabbi C. Brown*  
<http://www.dafyomi.co.il/calendar/myomi/myomi-thisweek.htm>

**APPS**

*Mishnah Yomit*  
[mishnahyomit.com](http://mishnahyomit.com)

*All Mishnah*  
 Orthodox Union

*Mishna Yomi*  
 Our Somayach, South Africa

*Kehati*

**SHIUR  
 ON KOL HALOSHON**

*Rabbi Moshe Meir Weiss*  
 In US dial: 718 906 6400  
 Then select: 1 – 2 – 4

**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
6 August י"ט אב	7 August כ' אב	8 August כ"א אב	9 August כ"ב אב	10 August כ"ג אב	11 August כ"ד אב	12 August כ"ה אב
Beitzah 4:6-7	Beitzah 5:1-2	Beitzah 5:3-4	Beitzah 5:5-6	Beitzah 5:7 - Rosh Hashanah 1:1	Rosh Hashanah 1:2-3	Rosh Hashanah 1:4-5

