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סימן שט״ז סעיף ג׳

# Halacha Highlight

## Trapping bees

Shulchan Aruch Siman 316 Seif 3

**אין במינו נצוד פטור אבל אסור**

**If the species is not trapped one is exempt but it is prohibited**

Shulchan Aruch teaches that creatures that are normally trapped are subject to the Biblical prohibition of trapping whereas capturing creatures that are not normally trapped is only a violation of the Rabbinic prohibition against trapping. For that reason, one who traps flies has violated only the Rabbinic prohibition since flies are not a creature that is normally trapped. The rationale for the distinction is that the prohibition of trapping does not physically change the creature that was captured. The prohibition is rooted in the fact that by trapping one has now taken possession of that creature. Consequently, when one traps a creature that is not normally trapped and from which one does not benefit from that creature being trapped, it is not considered as though one took possession of something significant. One merely prevented the creature from being able to move freely and be disruptive or cause harm (אבני נזר או״ח סי׳ קפ״ט אות ז׳). Ritva (שבת ק״ו: ד״ה וחכמים) implies that it is Biblically prohibited to trap creatures that are commonly trapped by gentiles but not commonly trapped by Jews.

Mishnah Berurah (ס״ק י״ג) relates that Bais Yosef implies that bees are a creature that is commonly trapped whereas other *Poskim*, including the Vilna Gaon, maintain that bees are not a creature that is normally trapped. Avnei Nezer (או״ח סי׳ קפ״ט אות כ״א) explains that although it is common to have a beehive for the production of honey, nevertheless, it is possible to consider bees a creature that is not commonly trapped. The reason is that for the bees to be able to produce honey they must be able to fly freely to access flowers. Rav Nissim Karelitz (חוט שני ח״א פט״ו סק״ב) further explains that one's benefit from bees is not from the body of the bee; it is from honey that the bee produces and for the bee to be capable of producing honey it must be free. Even when one traps bees, his intent is not to confine it but rather to set it free in the hive and thus it is not considered a creature that is commonly trapped.

# Overview

Siman 316 Seif 3:

**One is liable for trapping a creature that is normally trapped but one who traps a creature that is not normally captured is exempt but it is prohibited. Therefore, it is prohibited to trap flies even though one normally does not trap flies.** For this reason one must be cautious not to close a small box or utensil on Shabbos if it contains flies since it is inevitable that it will be trapped. Some authorities are lenient if upon opening the utensil the flies will immediately fly away.

- Even if one trapped it for a particular purpose he is not liable. (M.B. 12)
- There is a dispute whether bees are a species that is normally trapped. Fish are a species that is normally trapped. (M.B. 13)
- One should place a knife or some other object between the utensil and the cover so that the flies should be able to escape. (M.B. 14)
- Rema maintains that if the utensil is large it is permitted according to all opinions. (M.B. 15)
- The lenient opinion reflects Tur's position that since flies are small and they will escape as soon as one opens the utensil it is not considered as though it was trapped. Authorities follow the stringent position, therefore, one should chase away flies before closing the utensil. Taz rules that once one chased away all the flies that he sees, he need not look closer to see if there are other flies present since it is a ספק פסיק רישה on a Rabbinic matter being that flies are not normally trapped. (M.B. 16)