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## Threads of Reason

*A Collection of Essays on Tekhelet*

by Rabbi Mois Navon

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### ***About the Book***

This collection of essays is the result of research spanning more than a decade, motivated by nothing more than the desire to reach a clear understanding of the issues surrounding the rediscovery of *tebbelet* through the *Murex trunculus*. Is it possible to renew a biblical commandment without a *mesorah* (tradition)? Must religious objects, like *tzitzit*, be made from kosher substances? Does one violate the *melakbab* (Shabbat labor) of trapping when obtaining a snail on Shabbat? Bringing together biology and halakhah, chemistry and *aggadah*, archeology and theology – and applying careful consideration and logical reason – these essays seek to address the numerous questions that arise in the endeavor to revive this unique commandment. And as *tebbelet* is a commandment that has been forgotten for over 1300 years, each essay is colored with the marvel of a lost biblical commandment returned anew to the Jewish people. This collection of essays, then, can be seen as a group of threads – threads of reason – spun into a cord strong enough to bind a new generation in the fulfillment of an ancient commandment.

## ***Ha-Zad Hillazon – Trapping the *Murex trunculus*\****

The Tosefta (*Menahot* 9:6)<sup>1</sup> states that the *tekebelet* dye used for ritual purposes must be produced exclusively from a creature known as the *hillazon*.<sup>2</sup> The identity of this creature, though at one time well known, was lost to the Jewish people sometime between the years 474 and 1038 C.E.<sup>3</sup> From that time on, Jews have lamented the lack of proper *tekebelet* and have attempted to find a substitute for the blue thread that had reminded its wearer of the Creator – if not physically, then at least symbolically – by adding various windings and knots to the *zizit*. Symbolic substitutions notwithstanding, the desire to rediscover the element essential<sup>4</sup> to fulfilling the biblical precept has burned strong to this day.

Any attempt to rediscover the ancient source of the *tekebelet* dye is based on scouring the Torah and Talmud for every reference to the *hillazon* and its dye and scientifically matching these references to the physical characteristics of potential candidates. In recent years, researchers have identified the *hillazon* as the *Murex trunculus* mollusk based on these criteria. A statement in the tractate Shabbat, however, provides an intriguing characteristic of the *hillazon* that could possibly invalidate identifying the *Murex trunculus* as the *hillazon shel tekebelet*.

In discussing the Shabbat labor of trapping (*meleketbet zaidab*), the *gemara* (*Shabbat* 75a) brings the *hillazon shel tekebelet* as an example:

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\* This essay was originally published in *The Torah u-Madda Journal* (13/2005) and is reprinted by permission.

Our Rabbis taught [in a *Baraita*]: He who traps ( $\zeta ad$ ) a  $\underline{hillazon}$  and crushes it ( $po\zeta o$ ) is liable to one [sin-offering – for trapping but not crushing (Rashi)].<sup>5</sup>

Clearly, the  $\underline{hillazon}$  requires trapping.<sup>6</sup> Due to the fact that the *Murex trunculus* – a slow moving snail – is ostensibly easily caught, there is concern that it fails to meet this criterion.<sup>7</sup> To understand if trapping the *Murex trunculus* would, in fact, violate the biblical prohibition and the creature would therefore remain a candidate for the mysterious  $\underline{hillazon}$ , an investigation into the labor of trapping is required.<sup>8</sup> Such an investigation requires examining the scientific nature of the specimen in question as well as that of the myriad other creatures mentioned in the Torah and Talmud that are said to either require the labor of trapping or, on the contrary, to be exempt from such labor.

### **Yom Tov Trapping**

The details of the labor of trapping are elaborated by the *mishnah* (*Beizab* 3:1) in discussing the dispensation to trap food for *Yom Tov*:

One may not catch fish from a fishpond on *Yom Tov*, nor place before them food. But one may catch animals or fowl from enclosures and place before them food. Rabban Shimon ben Gamliel says: Not all enclosures are the same. This is the general rule: whatever requires trapping ( $me\underline{h}usar \zeta eidab$ ) is forbidden, while whatever does not require trapping is permitted.

To explicate the *mishnah*, the *gemara* (*Beizab* 24a) introduces two conceptual expressions. In explaining the *Tanna Kamma*'s distinction between when trapping is permitted and when it is not, R. Ashi applies the expression “In one lunge” ( $be\underline{h}ad shihyah$ ).<sup>9</sup> If one can catch the creature in a single leap or single effort, the act is not considered trapping. A fish in a pond cannot be captured in one fell swoop, and trapping one is therefore prohibited; an animal in an enclosure can be captured  $be\underline{h}ad shihyah$ , and trapping one would be permitted. To clarify Rabban Shimon ben Gamliel's statement that “whatever requires trapping” ( $me\underline{h}usar \zeta eidab$ ) is forbidden to trap, Shemuel teaches that this status is dependent on how one goes about trapping the animal. If one says, “Bring a trap that we may trap it” ( $havab me\underline{z}udab u\underline{z}udennu$ ), implying that one would rather<sup>10</sup> catch the creature using a trap, the act is considered trapping. The *gemara* states, in the name of Shemuel, that the *halakhah* is according to Rabban Shimon ben Gamliel.

In explicating the *mishnah*, Rashi explains that the *Tanna Kamma* and Rabban Shimon ben Gamliel disagree about the definition of *zeidah*. While the *Tanna Kamma* believes that the creature is considered already “trapped” if it can be retrieved *be-had shihyah* and there is therefore no violation of trapping involved in capturing it, R. Shimon ben Gamliel maintains that if one asks for a trap to be brought – *even though he could catch the animal in one lunge and it is therefore theoretically “trapped”* – there is culpability for the act of trapping. Accordingly, the *halakbah* is that one has violated *zeidah* if a trap is used even when the creature in question is slow moving.<sup>11</sup>

How does the *Murex trunculus* fit in with the *mishnah*’s definition according to Rashi? The *Murex trunculus* is a mollusk that lives on the floor of the Mediterranean Sea, usually among stones and coarse sand at depths ranging from 2m to 129m, but is most prevalent down to 15m.<sup>12</sup> Aristotle and Pliny explain that the method for catching *Murex* snails was by using baited wicker baskets and nets.<sup>13</sup> According to Rashi’s understanding of the *mishnah*, the *Murex trunculus* qualifies as a creature that requires trapping. Although it is a slow moving sea-snail and one might theoretically be able to catch it in one lunge, given that it resides at a depth greater than the height of an average human being, much effort must be invested to retrieve it via baited baskets, nets (see *Shabbat* 75a) or diving equipment.<sup>14</sup>

According to Rambam,<sup>15</sup> the *Tanna Kamma* and R. Shimon ben Gamliel agree that if one can obtain the creature in one lunge or if one would not request a trap there is no violation of *zeidah*. The disagreement revolves around the application of these criteria. The *Tanna Kamma* maintains that these criteria apply to animals and fowl only – not fish. As such, catching fish in all circumstances, regardless of how easily the trapping is accomplished, would incur the violation of trapping. R. Shimon ben Gamliel, on the other hand, maintains that these criteria apply to fish as well as to animals and fowl. As such, if fish could be retrieved in one lunge or no trap would be requested, no forbidden trapping is involved. Rambam rules according to R. Shimon ben Gamliel. Thus, even according to Rambam, the *Murex trunculus* would require trapping for, as stated previously, baited traps are required and one cannot realistically collect the snail from the bottom of the sea without diving gear.

Ravad<sup>16</sup> disagrees with Rambam’s interpretation. Ravad explains that since fish are “concealed from sight,” even if one would not require a trap to actually capture the fish, a level of effort is necessary in the capturing process that would make one culpable for trapping.<sup>17</sup> Thus, even according to Rabban Shimon ben Gamliel, one

would be in violation of *zeidab* if he caught fish with or without the aid of a trapping device. This ruling would apply to all sea creatures that are “concealed from sight” – and most certainly to the *Murex trunculus*, which lives on the bottom of the open sea, burrowed in the sand and rocks and is camouflaged by the sea floor growth.<sup>18</sup>

R. Yosef Karo in his *Beit Yosef*<sup>19</sup> explains that if an enclosure is so narrow that the fish contained therein could not escape, then even Ravad would agree that there is no culpability for trapping.<sup>20</sup> Similarly, in *Shulhan Arukh*<sup>21</sup> he quotes the statement of Rav (*Beizab* 25a) that taking fish from an enclosed pond is not considered trapping since the fish are “trapped and standing.” The conditions described by R. Yosef Karo clearly do not apply in our case – because an aquatic snail, living in the open sea at a minimum depth of two meters and camouflaged under turbid waters, simply cannot be likened to a fish in a small confinement.

In summary, according to all the various interpretations of the *mishnah*, the capture of the *Murex trunculus* would engender culpability for trapping. Moreover, the *halakhab* as brought in *Shulhan Arukh*<sup>22</sup> states explicitly, in accordance with the opinion of R. Shimon ben Gamliel, that one is culpable for trapping if one needs to use a trap – as is the case for the *Murex trunculus*.

## Setting a Trap

Though the need to employ a trap (“*bavah mezudab u-nezudennu*”) is used to denote the amount of effort involved in capturing an animal (i.e., indicating whether the animal is *mehusar zeidab* or not), this does not imply that there is culpability upon merely setting a trap. In general, to be found in violation of a labor of Shabbat one must actually perform the labor in question. The Gemara (*Shabbat* 120b) notes that the verse states, “do not *perform* any labor” (Ex. 20:10), thus implying that active performance is forbidden, not indirect action (*gerama*).<sup>23</sup> By setting a trap, one is not actually trapping anything and would ostensibly not be found in violation of Shabbat. This dilemma has generated no small amount of writing by *halakhic* decision-makers throughout the ages. Some<sup>24</sup> argue that one is not in violation of trapping by merely setting a trap in which an animal will later be caught;<sup>25</sup> while others<sup>26</sup> are of the opinion that since this is the standard method of the act, and it was, furthermore, the way *zeidab* was performed in the *Mishkan*, one is culpable for setting a trap.

To reiterate, for those who hold that the standard method to catch animals is by using a trap, then in the mere deployment of a trap, the labor of trapping is said to have been performed. These *posekim* would clearly concur that the labor of trapping is involved when setting baited baskets and nets to obtain the *Murex trunculus*. On the other hand, for those that hold that by the mere setting of a trap one is not in violation of the labor of trapping, the issue becomes more involved.

The *mishnah* (*Shabbat* 106b) states that if “a deer entered a house [by itself] and one locked the door on it – he is liable.” This statement has no dissenters; however, there is a difference of opinion as to whether this is a case of direct versus indirect trapping. *Arukh ha-Shulhan*<sup>27</sup> uses this *mishnah* to explain why indirect action (*gerama*) incurs liability for trapping: “Now, this act is indirect since the deer entered on its own and the person only *caused* it to be trapped by locking the door ... yet, this is in fact what is known as ‘trapping,’ for the essence of trapping is the final act.” On the other hand, those who do not believe that indirect trapping incurs liability would understand the *mishnah* to be teaching that it is the final act that effectuates the labor of trapping – in this case the locking of the door, which was active – and thus is not a case of indirect trapping at all.<sup>28</sup>

The procedure for trapping the *Murex trunculus* can be described by the following sequence: (1) baited nets are laid on the sea floor; (2) the snails crawl to the bait and attach themselves to it, all the while being free to come and go; (3) the fisherman pulls up the nets, thus effectively trapping them.<sup>29</sup> This sequence of events is parallel to the *mishnah* wherein the deer walks into the house of its own volition and is only trapped by the final act (i.e., the door is locked).

Therefore, for those who hold that culpability is incurred for trapping only when it is active, the pulling up of the nets would fulfill this requirement. On the other hand, those who suggest that the trapping of the *hilla*zon in the *Mishkan* was done by *gerama*<sup>30</sup> apparently maintain that although performing the final act is considered *gerama*, it is nevertheless an act for which one is culpable (as explained by *Arukh ha-Shulhan*). Thus, by all accounts, the capture of the *Murex trunculus* would incur culpability for trapping.

### Customarily Trapped

The Gemara (*Shabbat* 106b) adds another condition to the definition of the *melakhah* of trapping that is brought as the *halakhah* in *Shulhan Arukh*:<sup>31</sup>

The Rabbis taught [in a *Baraita*]: ... The sages say “One is liable for trapping any creature whose species is customarily trapped; conversely one is exempt of culpability if the species is not customarily trapped.”

Taken at face value, the statement confines culpability for trapping based solely on whether the creature is customarily trapped (*mino nizod*) or not. There is, however, another general principle that determines culpability for performing Shabbat labors – namely that one is not culpable for performing labors that have no positive purpose (*melakhah she-einah zerikhab le-gufah*). This principle plays a clear role in determining culpability for *zeidab*, as seen in the following *mishnah* (*Shabbat* 14:1):

Regarding the eight *sberazim* mentioned in the Torah, one who traps or bruises them [on Shabbat] is culpable. But as for the other vermin and crawling things (*shekazim u-remasim*),<sup>32</sup> one who bruises them is exempt; one who traps them for a [positive] purpose is liable, if not for a [positive] purpose he is exempt...

The interpretation of how to incorporate the two conditions (i.e., customarily trapped, positive purpose) has led to a dispute among medieval commentators (*mahaloket rishonim*) such that one can find an opinion supporting all possible rulings.<sup>33</sup> Basically the disputants line up either with Rashi on the one hand or Tosafot on the other. Rashi maintains that the *mishnah* teaches that the principle of *melakhah she-einah zerikhab le-gufah* is overridden in the case of a customarily trapped creature; such that even in a case when one has *no* positive purpose, since the creature is customarily trapped, one is liable. Tosafot, however, maintain that the *mishnah* teaches that the principle of *melakhah she-einah zerikhab le-gufah* remains in force in the case of a *not* customarily trapped creature; such that even in a case when one *has* a positive purpose, since the creature is not customarily trapped, one is not liable.

In any case, whether trapping applies only to things customarily trapped or whether it applies as well to a situation in which one traps for a positive purpose, these conditions pose no issue for the *Murex trunculus*, which was customarily trapped for the positive purpose of extracting its dye, as documented by Aristotle and Pliny.<sup>34</sup>

### **The Creepy Crawlers**

Since the *mishnah* cited above involves the trapping of specific types of crawling creatures, a brief review of “*sberazim*, *shekazim* and *remasim*” is in order. The Torah

(Lev. 11:10-12) refers to any creature that lives in the seas or brooks and does not have fins and scales as a “*shekeẓ*” (abomination). The verse singles out “*shereẓ ha-mayim*,” and Rashi explains (on Lev. 11:10) that every instance of the word “*shereẓ*” refers to low creatures that creep along the ground. The Torah (Lev. 11:21, 23) also refers to “*shereẓ ha-of*” (winged swarming things), some of which are labeled “*shekeẓ*” and some of which are not. Finally, the Torah discusses “*shereẓ ha-areẓ*” (Lev. 11:29-30, 41-44), all of which are labeled “*shekeẓ*” and among which eight specific creatures (known as the “*shemonah sheratzim*”) are listed by name (Lev. 11:29-30). The Torah uses the term “*romes*” – crawling – in the context of “*sheratzei ha-areẓ*”<sup>35</sup> and “*sheratzei ha-mayim*.”<sup>36</sup>

### ***Shemonah Sheratzim* – the Homet**

The eight *sheratzim* referred to by the *mishnah* are listed in the Torah (Lev. 11:29-30): (1) *ha-holed* – the weasel, (2) *ha-akhbar* – the mouse, (3) *ha-zav* – the turtle, (4) *ha-anakab* – the hedgehog, (5) *ha-koah* – the chameleon, (6) *ha-leta’ab* – the lizard, (7) *ha-homet* – (see discussion below), and (8) *ha-tinshamet* – the mole.

Of interest to the present discussion is the creature referred to as “*ha-homet*.” The *Arukh* holds that the *homet* is a *hillaẓon*. R. Yosef Albo<sup>37</sup> describes the *homet* as having “a shield” to protect itself in battle, like armor – a most likely reference to a shell. Rashi,<sup>38</sup> Hizkuni,<sup>39</sup> and Ravad<sup>40</sup> translate “*homet*” into Old French as “*limẓā*” (limaçe). Now, while Moshe Catane, in his “Otzar Lozei Rashi,” notes that *limaçe* can refer to a “*hillaẓon*” (snail with a shell) or “*hillaẓon arum*” (a snail without a shell, i.e., a slug), he explains that *homet* refers only to a *hillaẓon* “with a shell.”<sup>41</sup>

According to the above-mentioned commentators the *homet* is clearly a snail, and according to the *mishnah*, one who traps it incurs culpability. Though some note a distinction among the eight creatures listed in the Torah in that not all have hides and, as such, do not engender culpability for the labor of bruising, there is no distinction made in regard to culpability for trapping.<sup>42</sup> Culpability for trapping these *sheratzim* stems from the fact that they are all harmless and, therefore, if trapped, are done so for a positive purpose.<sup>43</sup>

From here we conclude that by trapping a snail one incurs culpability for trapping. The *Murex trunculus* snail, being no exception, fulfills the requirement of engendering liability for trapping.

## Other Crawlers

Although we have shown that many commentators believe the *homot* to be a snail, this is by no means a universal position. R. Samson Raphael Hirsch, based on the *gemara*,<sup>44</sup> explains that the class of *sbemonab sberazim* consists only of vertebrates possessing “flesh, tendons and bones” – since a snail is an invertebrate, it cannot be the “*homot*” of the *sbemonab sberazim*.<sup>45</sup> R. Sa’adyah Gaon translates “*homot*” as “*harba*” – chameleon.<sup>46</sup> Similarly, R. Yosef Kapah, in his super-commentary on the Ravad, maintains that the *homot* is the “*zikil*” – chameleon.<sup>47</sup> R. Steinsaltz claims that it is of the lizard family<sup>48</sup> (*Scincidae*), specifically the *Mabuya vittata*. Professor Yehuda Felix explains that, according to the Septuagint, the *homot* must be of the “*zohalim*” – crawlers; he suggests a type of lizard, *Calcides Guentberi*.<sup>49</sup> In an investigation as to the identity of the *sbemonab sberazim*, Professor Mordekhai Kislev writes that, outside of the *akbbar* and the *holed*, “the remaining six creatures include all the suborder of *leta’ot* (*Sauria*)” – lizards.<sup>50</sup>

If the *homot* is not a snail, then the snail, which still fits the general description of crawling things (*shekazim u-remasim*),<sup>51</sup> must be handled by the second half of the *mishnah* in Shabbat. That is to say, if one traps it for a positive purpose, one is culpable for trapping. As the *Murex trunculus* is captured to obtain its dye, one trapping it would incur liability based on the “*shekazim u-remasim*” ruling of the *mishnah*.

## Trapped and Standing

There is an exemption that may eliminate many cases wherein culpability for trapping would be incurred: if the creature is “trapped and standing.” The *gemara* (*Shabbat* 106b), after quoting the trapping discussion in *Beizab* 24a, continues to elaborate on the parameters of *zeidab*. The first point ascertained is that if an animal is lame, old, or sick with fatigue<sup>52</sup> such that it will not run away, seizing it does not incur liability for trapping. The *gemara* adds to these exemptions the case in which environmental conditions affect the creature to the point that it is immobilized. The reason for these exceptions is that the labor of *zeidab* requires effort; if the creature is simply “standing” in place such that negligible effort need be made to capture it, it is considered inherently “trapped.” To such cases, the expression “trapped and standing” (*nizzodin ve-omedin*) is applied.<sup>53</sup> This is the reasoning behind the *halakhab* described earlier; if a creature can be obtained *besihyah abat*, it is intrinsically *nizzod ve-omed* and one would not transgress the

*melakhab* by capturing it.<sup>54</sup> Thus, if the *Murex* were considered *nizzod ve-omed*, one would not be liable for trapping it.

### ***The Scorpion***

Although the ruling of “trapped and standing” seems to be universally applicable, the example of the scorpion brings into question the broadness of the rule’s scope. The *mishnah* (*Shabbat* 16:7) teaches: “we may invert a bowl over ... a scorpion so that it not sting.” Rashi<sup>55</sup> explains that the *mishnah* permits the action *despite the fact* that one is thereby in violation of trapping. Given that one can trap the scorpion by simply inverting a bowl over it, it would seem that it is “trapped and standing” (i.e., obtainable in one action). Yet, the exemption from culpability is not because it is *nizzod ve-omed* but only “so that it not sting.”<sup>56</sup>

If the exemption of “trapped and standing” were universal, there would be no need to teach that there is no liability for inverting a bowl on a dangerous creature as we would already know that the act is permitted since the creature is “trapped and standing.”<sup>57</sup> If the *mishnah* wanted to teach that there is an exemption for dangerous creatures while still maintaining the exemption of “trapped and standing” as universally applicable, it should have used an example of a more elusive creature, such as a lion. The case of the scorpion seems to demonstrate that even though the creature is “trapped and standing,” one would be liable for trapping it were it not for the fact that he was in danger.

Perhaps one could argue that the scorpion is not really *nizzod ve-omed* and therefore requires a separate exemption to allow its capture. For even though one could capture a scorpion by dropping a bowl over it, this is not an entirely effortless task since, although most scorpions in Israel are described as “slow,” there are some that are described as “very agile.”<sup>58</sup> This explanation, however, would not satisfy all opinions; since many maintain that the “one lunge” condition does not mean that the animal is literally “standing” or moving slowly, but rather that one is not liable for trapping if he can get it in a “single chase” (i.e., without having to rest).<sup>59</sup> Thus, although the scorpion may in fact be fast, its attainability within a single effort leaves open the possibility that the scorpion is *nizzod ve-omed* and its capture would still be an exception to the “trapped and standing” exemption.

Perhaps the only way to explain why the scorpion does not fall into the category of “trapped and standing” is that it can “get away” (*lehishamet*) by burrowing into the

ground or hiding in crevices.<sup>60</sup> As the *gemara* (*Shabbat* 106b)<sup>61</sup> explains, if there are crevices into which the creature can escape<sup>62</sup> it is not considered trapped. This, however, is dependent on the environs in which the scorpion is found and not on the creature itself – a stipulation not made by the *mishnah*.

It seems, then, that the scorpion serves as an example of an exception to the rule of *nizzod ve-omed*, for here is a creature which ostensibly would not make one liable for trapping due to its being easily attainable, yet according to the *mishnah* one is only permitted to trap it because of the danger it poses. That is, even though the creature is *nizzod ve-omed* one is liable for trapping it. Nevertheless, there are a number of ways to explain how it is really not *nizzod ve-omed* (i.e., it's fast, it gets away) and furthermore, the liberal view that “*be-had sehiyah*” means “a single chase” is not universally accepted. Thus, the scorpion does not provide an undisputable example of an exception to the *nizzod ve-omed* rule.

### ***The Homet***

Returning to the *shemonah sherazim*, if the *homet* is taken to be a snail, we are presented with an inherently slow moving creature that is nevertheless categorized as causing one who catches it to be culpable for trapping. If one were to apply the exemption of “trapped and standing” to a snail, it could never be said to engender trapping. Given that liability for trapping applies equally to all *shemonah sherazim*,<sup>63</sup> we are forced to conclude that “trapped and standing” simply does not apply to the *shemonah sherazim*, perhaps by way of a special exception. The only way to avoid this sweeping conclusion is to discard the identification of the *homet* with the snail<sup>64</sup> and rather equate it with some type of lizard that would generally require trapping and not be considered *nizzod ve-omed*.

### ***The Worm***

On the latter half of the *mishnah* in *Shabbat*, Rashi<sup>65</sup> brings the worm (*tola'at*) as an example of a crawling creature the trapping of which would make one liable if done for a positive purpose.<sup>66</sup> From Rashi's use of the term “*tola'at*” in his comments to the Tanakh and *gemara* there can be no doubt that he employs the word to refer to a small slow moving creature.<sup>67</sup> Here, then, is an inherently very slow moving creature which nevertheless falls under a category for which trapping pertains. If one were to apply the exemption of “trapped and standing” to a worm, it would always be relevant, and the worm could never be said to cause

trapping. The snail, by extension, would also cause liability for trapping despite its slow moving nature.

How can we explain the fact that the rule of *nizzod ve-omed* does not seem to apply to worms and snails? Perhaps the rule does not apply to any crawling creatures, but only to animals and fowl.<sup>68</sup> Alternatively, perhaps it does not apply to any creatures which inherently move so slowly that they are always in a state of “trapped and standing.” The dispensation of “trapped and standing” would then be a relative one. That is, for animals which normally require pursuit, “trapped and standing” is applicable such that if in a specific instance all one has to do to obtain it is effortlessly walk up and grab it, no trapping is incurred. On the other hand, if by its very nature the creature is always easy to obtain, then trapping is always incurred – the rule of “trapped and standing” being inapplicable. A third possibility is that worms, living underground or embedded in the bark of trees,<sup>69</sup> can be classified like fish as “concealed from sight,” such that one must make an effort and/or bait traps to catch them. Thus “trapped and standing” applies only when one can literally – not theoretically – seize them in “one lunge.”

R. Shelomoh Zalman Auerbach<sup>70</sup> ruled that, in fact, any creatures that are very simple to capture do not cause culpability for trapping. He also ruled that even if the creature was in some hiding place (e.g., ants underground), such circumstances do not affect the liability for trapping.<sup>71</sup> By maintaining this position, R. Auerbach rejects out of hand the identification of the *homot* as a snail, since one is liable for trapping the *homot* but not for capturing a slow moving snail. He would also not accept Rashi’s example of the worm as being a creature that could cause liability for trapping. However, following this ruling, R. Auerbach read Rabbeinu Yeruham’s<sup>72</sup> decision which explicitly assigns culpability for trapping a worm and as a result, R. Auerbach wrote that the issue “requires investigation.”<sup>73</sup> Be that as it may, in his collected writings, *Shulhan Shelomoh*,<sup>74</sup> R. Auerbach states that anything which does not require “*tabbulot*” (traps and/or special effort) does not incur trapping, thus implying that if it does require “*tabbulot*” it would incur liability. As such, he would agree that the *Murex trunculus*, which requires nets to be set, does engender trapping.

Most recently, R. Yosef Shalom Elyashiv did indeed include slow moving creatures in the prohibition of trapping.<sup>75</sup>

## Conclusion

From an investigation into *mishnah Beizab* 3:1, we learned that according to all opinions the labor of trapping is involved any time a trap is required. Furthermore, we have seen that this condition is brought as normative *halakhab* – that is, if a trap is used, the act is considered *zeidab* (*Orah Hayyim* 497:7). Since Aristotle and Pliny describe the *Murex* snails as being trapped by baited baskets and nets, like the *gemara*'s (*Shabbat* 74b) description, we can safely conclude that the *Murex trunculus* fulfills the requirement of needing to be “trapped” as set forth in the *gemara* (*Shabbat* 75a).

In discussing the issue of setting a trap, it was shown that there are those who maintain that passive trapping incurs liability while others maintain that only active trapping incurs liability. Be that as it may, we demonstrated that those on either side of the argument concur that one who performs the final act to affect the capture of an animal that wandered into a trap on its own would be culpable; one side considering the act to be passive, while the other side maintaining it to be active. Since this is precisely the method for trapping the *Murex trunculus*, it would be considered by all to incur culpability for trapping.

Our analysis of the various cases of trapping led to the understanding that the exemption from culpability for trapping based on the fact that the creature is “trapped and standing” and can thus be obtained in “one lunge” might have limitations. Be that as it may, according to all opinions, the capture of *Murex trunculus* snails would incur culpability for trapping; the exemption of “trapped and standing” being inapplicable either because one must use a trap, or would rather use a trap, it is a crawling creature, it is an inherently slow moving creature, or it can not literally be seized in “one lunge.”

With this issue concerning the *Murex trunculus* resolved, may yet more Jews merit wearing the insignia of Heaven and bring the world yet another step closer to the day when, “ten men from every nation will take hold of the *zizit* of a Jewish man and say, let us go with you for we have heard that God is with you.” (*Zekhariah* 8:23).

## ~ Notes ~

- 1 The *gemara* also makes clear that *tekebelet* is made from the *hillaẓon* (e.g., *Menahot* 42b, 44a) and may not be made from “*kela ilan*” (*Bava Meẓj’a* 61b) – evidently the only known alternate source – but its statement is not as unambiguous and explicit as that of the Tosefta.
- 2 There are some who consider any *tekebelet* whose source is not *hillaẓon* to be in the category of *kela ilan* (see R. Menachem Burstein, *Ha-Tekbelet* [Jerusalem: Sifriyati, 1988], 70, n. 52). At the other end of the spectrum, there are those who consider the prohibition of *kela ilan* to refer only to a plant source (*Tiferet Yisrael*, Introduction to *Mishnayot Moed*, sv. *oman ba-davar*). Indeed, a number of *posekim* maintain that synthetic dye can be used as long as it was fast to wool and the right color. R. Bezalel Naor, “Substituting Synthetic Dye for the Hillaẓon,” *Journal of Halacha and Contemporary Society*, XXIV (1992): 105. Nevertheless, the weight of *halakhic* opinion is that the *hillaẓon* is a *sine qua non* for *tekebelet* dye.
- 3 The earliest date given for the loss of *tekebelet* is suggested by R. Yehoshua Mikutna in his work *Yeshuot Malko (Orah Hayyim 2:1-3)* as being toward the end of the Amoraic period (474 C.E.). The Radzyner Rebbe (“*Sefunei Temunei Hol*,” in *Sifrei ha-Tekbelet Radzyn* [Benei Berak, 1990], 5-7) puts the end of *tekebelet*’s use among the Jews at the end of the Geonic period (1038 C.E.). R. Herzog (“Hebrew Porphyrology,” in *The Royal Purple and The Biblical Blue* [Jerusalem: Keter, 1987], 113) rejects the notion that the Geonim had *tekebelet*; instead, he surmises that it was the Arab conquest of Israel (c. 639) that brought an end to the snail source dyeing industry in Israel (*ibid.*, 112). For a more complete treatment see my essay, “On History, *Mesorah*, and *Nignaz*,” (herein, p. 18).
- 4 “The essence (*ikkar*) of the *mizyab* is *tekebelet* and one wearing white (strings) without *tekebelet* has not fulfilled a complete *mizyab* (*mizyab sheleimab*)” – Rashi on *Menahot* 40a, s.v. *Bet Shammai potrin*; also Rashi quoted by Ramban in *Milhamot, Shabbat* 25. “The reminder [to do the *mizvo*] is in the thread of *tekebelet*” (Ramban, Num. 15:38).
- 5 See also Tosefta *Shabbat* 9:2.
- 6 That is to say, if one captures a *hillaẓon* on Shabbat he is in violation of the biblical prohibition of trapping on Shabbat.
- 7 Although the Talmud Yerushalmi (*Shabbat* 7:2, 52a) brings an opinion that, in fact, there is no formal violation of “trapping” with regards to the *hillaẓon*, so anomalous is this opinion that the Tosafot (*Shabbat* 75a, s.v. *ha-zad*) simply comment with the perplexed words “needs investigation.” The Radzyner Rebbe provides such an investigation in his *Sefunei Temunei Hol*, p. 13. He explains that the opinion in the Yerushalmi is based on the description of the *hillaẓon* as growing in the sea and coming up unto the “mountains in the

sea.” By coming out on to dry land, the snail is then readily obtained and, as such, does not incur trapping. On the other hand, when it is in the sea, it requires setting of traps and therefore leads to trapping. Thus, the opinion that states that there is no violation of *zeidah* is referring to that time when one can simply pick them up when they are beached on the “mountains in the sea.” The Radzyner also brings an alternative explanation based on the opinion that the *hillaẓon* was obtained for the work of the *Mishkan* in a miraculous way. Given that there was no trapping of the *hillaẓon* necessary in the *Mishkan*, the culpability for trapping never applies to it, even though in post-*Mishkan* life trapping was in fact required.

Be that as it may, all of the above is an attempt to explain an anomalous opinion that is not accepted and for which the Rebbe himself concludes is only “*sevara ve-lo meẓj’ut*” – deductive and not empirical.

- <sup>8</sup> It should be noted from the outset that in all instances wherein an act of trapping is deemed “not culpable,” it is still nevertheless forbidden rabbinically (*patur aval asur*). In any event, this article is not intended to determine “*halakhab le-ma’aseh*.”
- <sup>9</sup> The full expression is: “Whenever one can chase after and catch it with one lunge” (*kol bekhah de-rabit batrei u-matei la be-had shilyah*). Rabbeinu Hannanel (*Beizab* 24a, s.v. *be-had shilyah*), Rambam (*Hil. Shabbat* 10:20), *Maggid Mishnah* (*ibid.*), Ran (Dappei Harif, *Beizab* 13a, s.v. *heikhi dami*), *Mishnah Berurah* (497:7:19) interpret the phrase to allow for “one run without resting.” Conversely, Ritva (*Shabbat* 106b, s.v. *kol bekhah*), Kol Bo (quoted in *Hayyei Adam*, *Hil. Shabbat* 30:1) indicate that the lunge must be accomplished without any pursuit. Rashi (*Beizab* 24a, s.v. *be-had shilyah*) writes that one must be able to nab the creature without its getting away – for which Rashba (*ibid.*, s.v. *ve-nir’eh*) and Hayyei Adam (*Hil. Shabbat* 30:1) interpret to mean that catching it does not include a “run.” See however, Rashi (*Shabbat* 106b, s.v. *shilyah*) who uses the word “*meritzab*” (run).
- <sup>10</sup> According to Rashi’s interpretation of the *mishnah* (see further on in text).
- <sup>11</sup> According to R. Ovadya mi-Bartenura (*Beizab* 3:1, s.v. *kol ha-mehusar zaidah*), the *Tanna Kamma* and R. Shimon ben Gamliel agree regarding the definition of forbidden trapping and Rabban Shimon ben Gamliel’s words are merely meant as a summary or restatement of the *Tanna Kamma*’s opinion. As such, if an animal can be retrieved *be-had shilyah* it is considered already “trapped;” however, if one would ask for the aid of a trap, then it would be considered “not trapped” and the labor of trapping would thus be *violated*. This understanding of the *mishnah* is brought as an alternate explanation by Rashi (s.v., *hashata*), either way, for our purposes both lead to a similar conclusion.
- <sup>12</sup> E. Spanier and N. Karmon, “Muricid Snails and the Ancient Dye Industries,” *The Royal Purple and The Biblical Blue* (Jerusalem: Keter, 1987), 180-181.
- <sup>13</sup> Aristotle, *History of Animals* (5:15). Pliny, *Natural History* (9:37). Spanier and Karmon, *ibid.*, 188. *National Geographic* 135:3 (March, 1969), 401.

<sup>14</sup> Rashi (*Beizah* 24a s.v. *havah mezudab*) indicates that one is liable for trapping whenever one must resort to special tactics or strategies (*tabbulot*). Even if the use of diving equipment is not considered *tabbulot*, thus eliminating liability for trapping, such is of no consequence for this discussion, as such equipment was certainly not available at the time of the Talmud and the question at hand is whether the *Murex trunculus* fits the Talmud's criteria for trapping. In contrast, the use of diving equipment as a method of obtaining a creature in "one effort" would be of interest in a discussion of whether one is liable – *halakhab le-ma'aseh* today – for trapping.

<sup>15</sup> *Hilkhot Yom Tov* 2:7. See especially the explanation of the *Maggid Mishnah*.

<sup>16</sup> *Ibid.*

<sup>17</sup> This is brought as *halakhab* in *Mishnah Berurah* (497:1:2); also see *Ba'er Heteiv* (*Orah Hayyim* 497:1:1). *Magen Avraham* notes that if the water is clear and there is no difficulty in catching fish, it is permitted to catch them (i.e., there is no culpability of trapping). Scientific researchers describe the *Murex*'s environment as "the turbid waters of the shallow habitat of *T. trunculus*," (Spanier and Karmon, "Muricid Snails and the Ancient Dye Industries," 187). Consequently, the *Murex* would be considered to compel trapping even according to this definition. Even if one were to find the *Murex* in a clear water environment, it must be realized that *Magen Avraham*'s "clear water" stipulation is only a sub-condition to the general rule that catching the creature require no effort. As has been established, the *Murex* is caught by laying traps, an effort which would deem one liable for trapping.

On a personal note, I have taken many groups snorkeling in Israel to catch the *Murex trunculus*, and it is only with great perseverance that one can identify a snail using a scuba mask – again, something unavailable in talmudic times, and thus not relevant to this discussion (see fn. 14). There is virtually no way to identify the snail by simply looking above the clear water surface, or even with one's head in the water without a mask or goggles.

<sup>18</sup> "Marine fouling" (Spanier and Karmon, 180, 189).

<sup>19</sup> *Orah Hayyim* 497:5.

<sup>20</sup> This reasoning is brought as *halakhab* by Rama (*Orah Hayyim* 497:5).

<sup>21</sup> *Ibid.*

<sup>22</sup> *Orah Hayyim* 497:7. The *Mehaber* decides this *halakhab* according to R. Shimon ben Gamliel (*Beizah* 3:1) – see *Be'er ha-Golah* (*Orah Hayyim* 497:7:9). The ruling applies to aquatic as well as non-aquatic creatures – 497:7 discusses "animals and birds" and *Mishnah Berurah* 497:7:18 refers back to 316:1:4, where he explains that the law applies to fish as well.

- <sup>23</sup> See *Be'ur Halakhab* 334:22 (s.v. *sbe-raddai yitbakur*, and especially s.v. *degaram kibui*). See also *Arukh ba-Shulhan* 316:11. For a discussion on the *gemara* (*Shabbat* 120b) see R. D. Ribiat, *Migdal David* in *The 39 Melachos* Vol. I (New Jersey, 2004), 148, n. 161.
- <sup>24</sup> *Mishnah Berurah* (316:4:18); *Minhat Hinukh* (*Mizvab* 32, *Musakh Shabbat*, *Zad*); *Kupat Rohalim* (*Shabbat*, s.v. *ba-zad*); *Har Zevi* (*Tal Harim*, *Zad* [1], s.v. *ve-li hayah*). *Magen Avraham* (*Orah Hayyim* 316:4:9) holds that if it is not known that the trap will capture an animal, one is not culpable; however, his comments elsewhere (252:20) indicate that if it is certain that an animal will be captured, even after some time, one is culpable (see *Minhat Shelomoh* [*Tanina* 2-3 (31), s.v. *ba-magen avraham*]).
- <sup>25</sup> It should be noted that the discussion here is about setting traps on Shabbat; the issue of setting them *before* Shabbat is not one of passive indirection (*gerama*) but of “idleness of utensils” (*shevitat keilim*) (*Shabbat* 1:6), which *Shulhan Arukh* (*Orah Hayyim* 252:1) states clearly is permitted.
- <sup>26</sup> Rambam (*Hil. Shabbat* 10:22), Rama (*Orah Hayyim* 316:2); *Arukh ba-Shulhan* (316:11); *Arnei Nezer* (389:9, 10); *Hazon Ish* (*Hilkebot Shabbat* 38:1, s.v. *ve-nir'eh*); *Minhat Shelomoh* (*Tanina* 2-3 [31], s.v. (3) *ve-al pi*).
- <sup>27</sup> *Orah Hayyim* 316:11.
- <sup>28</sup> See Maharim (52), who explains the comments of Tosafot (*Shabbat* 17b) on setting traps to mean that one is not liable for trapping if one does not trap with one's hands (quoted in *Minhat Shelomoh* [*Tanina* 2-3] 31, s.v. [2] *ba-magen avraham*). See also R. D. Ribiat, *Migdal David* in *The 39 Melachos*, Vol. III, p. 728, n.8, s.v. *ve-hinei*.
- <sup>29</sup> Aristotle (*History of Animals*, 5:15) explains that, “Fishermen in past times used not to lower creels or attach them to the bait, so that very often the animal got dropped off in the pulling up [that is, they tried to catch them using a baited string or hook from which the snail would often release itself]; at present, however, they always attach a basket, so that if the animal falls off it is not lost.” From here it can be seen that the final act of the fisherman taking up the strings is what effects the trapping. Afterwards, the snails are still free to release themselves; this time however, there is a basket below to capture them. And even from the basket, they could leave, if not for the fact that they had no time to crawl away. A different description is quoted in the name of Jul. Pollux (*Onomasticon*, i. 4, ch. 45) in (George Rawlinson, *History of Phoenicia*, [Longmans, Green, and Co., 1889], Ch. 8, n.15) which describes the traps set as being inescapable once entered. Nevertheless, this does not pose an issue for this discussion, since our question revolves around the culpability for trapping the *Murex trunculus* as described by the method in the *gemara* – which was unambiguously by the use of nets (*Shabbat* 75a). And clearly, if nets are used the snails are free to go until pulled up by fisherman. This is made clear by Pliny's (*Natural History*, 9:37) advice for dealing with the problem of the snails leaving or falling off, he explains that it is most

effective to place cockles in the nets in order that they might latch on to the snouts of the *Murex* and thereby hold them in the nets.

<sup>30</sup> *Arvei Neẓer* 389:10; *Minḥat Shelomoh* (*Tanina* 2-3 [31], s.v. (3) *ve-al pi*).

<sup>31</sup> *Orah Hayyim* 316:3

<sup>32</sup> *Shinni Nusḥaot* has “*sberazim u-remasim*.”

<sup>33</sup> Table of *halakbic* opinions:

Conditions		Opinions						
Customarily Trapped	Positive Purpose	Rashi <sup>a</sup>	Tos. Rid <sup>b</sup>	Tosafot <sup>c</sup>	Ritva <sup>d</sup>	Ramban <sup>e</sup>	Rambam <sup>f</sup>	R. Hai Gaon <sup>g</sup>
No	No	Not Liable						
No	Yes	Liable	Liable	Not Liable	Not Liable	Not Liable	Not Liable	Liable
Yes	No	Liable	Liable	Not Liable	Not Liable	Not Liable	Liable	Not Liable
Yes	Yes	Liable						

<sup>a</sup> *Shabbat* 107a, s.v. *shelo* – Rashi comments only on “*patur*” for not customarily trapped; in all other cases culpability is derived implicitly (see R. D. Ribiat, *Migdal David* in *The 39 Meloḥos*, Vol. III, p. 739, n.109). Similarly, R. Ovadyah mi-Bartenura (*Shabbat* 14:1).

<sup>b</sup> *Shabbat* 107b, s.v. *man tanna*.

<sup>c</sup> *Shabbat* 107a, s.v. *shelo*. See *Tosafot Yom Tov* (*Shabbat* 14:1, s.v. *shelo*); also *Magen Avraham* (*Orah Hayyim* 316:3:6). Similarly *Tiferet Yisrael* (*Shabbat* 14:1, *Yakhin* [6]).

<sup>d</sup> *Shabbat* 107a, s.v. *bazadan leẓorekb*.

<sup>e</sup> *Shabbat* 107a, s.v. *bazadan leẓorekb*; So too Ran (Dappai Harif, *Shabbat* 38b, s.v., *bazadan*).

<sup>f</sup> *Hil. Shabbat* (10:19, 21). Rambam, unlike others, holds that a labor done for no positive purpose nevertheless incurs liability.

<sup>g</sup> Quoted in *Shiltei Ha-Gibborim* (*Shabbat* 14:1 [2] in Rif).

*Shulḥan Arukh* (*Orah Hayyim* 316:3) quotes the language of the *Baraita* (*Shabbat* 106b). *Mishnah Berurah* (316:3:12) explains according to Tosafot, that capturing something not customarily trapped is free from culpability, regardless of intent. As for capturing something customarily trapped, *Mishnah Berurah* (316:8:28) understands, like Tosafot, that one is culpable for trapping unless one had explicit intent to trap for no positive purpose. Without specific intent, one would be liable for trapping animals that are *mino nizzod*.

<sup>34</sup> Aristotle, *History of Animals* (5:15). Pliny, *Natural History* (9:36-38). I do not include here the *Mishkan*'s use of the *hillaẓon*, for the *Murex trunculus* is at this point, still only a candidate for the *hillaẓon*.

<sup>35</sup> Gen. 1:24 (see Rashi); Lev. 11:44; etc.

<sup>36</sup> Gen. 1:21; Lev. 11:46.

<sup>37</sup> *Sefer ha-Ikkarim* 3:1

<sup>38</sup> Lev. 11:30; *Haggigab* 11a (s.v. *homet*); *Hullin* 122a (s.v. *homet*).

<sup>39</sup> *Limacon* (Lev. 11:30).

<sup>40</sup> Responsa 207, s.v. *esbal ata* calls the *homet* “limaçe” and R. Kapah notes that by using the name “limaçe” the intention is to refer to a creature with a shell (“*shablul*”). Nevertheless, R. Kapah believes the *homet* of the *shemonah sberazim* to be the *zakit* (chameleon) (see also Ravad, Responsa 91).

<sup>41</sup> See my essay, “*HaPotzo – Extracting the Dye from the Murex trunculus*” (herein, p. 32). [Note this paragraph has been revised from the original publication in *Torah U-Madda*].

<sup>42</sup> *Be’ur Halakhab* (*Orah Hayyim* 316:8, s.v. *shemonah sberazim*). *Encyclopedia Talmudit* (4:677) summarizes the disagreement (*mahaloket tana’aim*) between the *Hakhamim* and R. Yohanan ben Nuri as follows. The *Hakhamim* hold that the *anakab*, the *ko’ab*, the *leta’ab*, and the *homet* do not have separate skins, whereas R. Yohanan ben Nuri holds that all eight *sberazim* have hides – the *halakhab*, according to the Rambam, follows the opinion of the *Hakhamim*.

<sup>43</sup> *Be’ur Halakhab*, *ibid*.

<sup>44</sup> *Hullin* 128b.

<sup>45</sup> Commentary on Lev. 11:31.

<sup>46</sup> As per R. Kapah’s note to R. Sa’adyah Gaon (on Lev. 11:30).

<sup>47</sup> Comment to Ravad, Responsa 91.

<sup>48</sup> Similarly, R. Chaim Rabinowitz, *Da’at Soferim* (New York, 1960); and *Olam ha-Tanakh* on Lev. 11:30 (Tel Aviv, 1993).

<sup>49</sup> Y. Felix, *Animals and Plants in the Torah* (Jerusalem, 5744).

<sup>50</sup> Mordekhai Kislev, “Categorization Principles of Wild Life in the Torah and Presentation of the *Shemonah Sberazim*,” *Halamish* 7 (1988): 34, 36.

<sup>51</sup> The land snail fits the description of a “*sberetz*” and “*sbekez*,” as does the sea snail, which has no fins and scales (Lev. 11:10). In fact, R. Ovadyah mi-Bartenura (*Shabbat* 14:1) brings “the *hillazon*” as an example of a *sbekez* to which the *mishnah* is referring. R. Akiva Eiger (n. 132 on *mishnah*) makes clear that “the *hillazon*” referred to is the *hillazon* of *tekbelet*. One should not be troubled by the reference in *Menahot* 44a which states that the *hillazon* is “similar to a fish” – for everything in the sea was referred to as fish. See Vilna Gaon, *Eliyahu Rabbah*, *Keilim* 10:1.

<sup>52</sup> Rashi on *Shabbat* 106b, s.v. *u-ve-zena*.

<sup>53</sup> *Ibid.*, s.v. *ḥagavim be-sha'at batal*.

<sup>54</sup> *Mishnah Berurah*, 316:2:7.

<sup>55</sup> *Shabbat* 107a, s.v. *al akera*.

<sup>56</sup> So too Rosh (*ibid.*); Rambam (*Hil. Shabbat* 10:25); *Shulhan Arukh* (*Orah Hayyim* 316:7). See, however, *Hiddushei ha-Rashash*, who explains that this case cannot be one of fear of danger, since the act would then obviously be permitted. Indeed, *Hagahot ha-Bah* (*Shabbat* 107a [a]) explains the exemption due to the fact that the act is one that is not done for a positive purpose (*melakhah she-einah zerikhab le-gufah*); similarly *Korban Netanel* (*Shabbat* 16, [9]) and others. *Mishnah Berurah* (316:7:27) explains that even according to Rambam, who holds that one is culpable for an act not done for a positive purpose, would permit in this case because one is only performing the act to be rid of the creature (that it not sting – *Be'ur Halakha*, s.v. *nehashim*). *Magen Avraham* (*Orah Hayyim* 316:7:12) writes that the Rambam doesn't consider the act as trapping since it's not done in the usual manner, and in any case the creature is not usually trapped (*ein bemino nizgud*) – see further *Mahazit Hasbekel* (on *ibid.*). In any case, no one explains the exemption of the *mishnah* being due to “trapped and standing.” In fact, the *mishnah* (*Shabbat* 16:7) ends with R. Yehudah citing an incident wherein Rabban Yohanan ben Zakkai questions whether one would be permitted to trap a scorpion that wasn't chasing anyone (i.e., since it didn't present a threat, trapping would in fact be incurred – see esp. Rashi s.v. *ḥosheshani*). Thus, without the danger factor, though it was apparently obtainable *be-ḥad shilyah* (i.e., it was “trapped and standing”), one would be liable for trapping. For further discussion see *Be'ur Halakha* (*Orah Hayyim* 316:7, s.v. *nehashim*).

<sup>57</sup> Indeed, *Mishnah Berurah* (316:7:27) explains that if the creature was standing perfectly still there would be no trapping; nevertheless, he does not go so far as to use the term *be-ḥad shilyah*, thus still leaving open the question: why does the *mishnah* resort to permit only for fear of the sting if it was moving yet attainable in *be-ḥad shilyah*?

<sup>58</sup> In a comprehensive listing of scorpions in and around the land of Israel, G. Levy and P. Amitai, *Fauna Palestina Arachnida I: Scorpiones* (Israel, 1980) classify the creatures as being “slow,” “rather slow,” “agile,” and “very agile” (see 29, 35, 46, 53, 101, 111, 121).

<sup>59</sup> See above fn. 9 for varying opinions. An Israeli soldier stationed in the Judean desert told me that every night tens of scorpions would come out toward the light of his base, following which the soldiers would trap and kill them. He described them as being rather fast, but one could still obtain them in “a single effort.”

<sup>60</sup> Scorpions live under rocks and in crevices and burrow in soil or sand (G. Levy and P. Amitai, *Fauna Palestina Arachnida I: Scorpiones*, 3).

<sup>61</sup> Also *Beitzah* 24a.

<sup>62</sup> Rashi (*ibid.*, s.v. *u-kezev*).

<sup>63</sup> *Be'ur Halakhab* (*Orah Hayyim* 316:8, s.v. *shemonah sberazim*).

<sup>64</sup> Indeed, Tosafot Rid (*Haggigah* 11a, s.v. *shekbein*) explains that because the snail moves so slowly and is always “trapped and standing,” identifying it with the *homot* is untenable.

<sup>65</sup> Rashi is not alone in his explanation of the word “*tola'at*,” as R. Ovadyah mi-Bartenura copies him and brings “worms” (*tola'im*) as an example of slow moving creatures. He also brings “the *hillaẓon*” as another example for “*shekazim* and *remasim*” that one is liable for trapping. However, since we are trying to demonstrate that the *hillaẓon* is a slow moving creature which nevertheless requires trapping, it would be circular to use it as a evidence to prove itself. Once the worm proves the point, however, the inclusion of the *hillaẓon* as a snail further strengthens our conclusion – especially since the *hillaẓon* referred to is that of *tekbelet* fame (see R. Akiva Eiger [n. 132 on the *mishnah*]).

<sup>66</sup> The purpose could be medicinal or perhaps even dyeing, if the term *tola'at* is taken to refer to “*tola'at shani*.” Also worthy of consideration is the fact that Rashi uses the term “*tola'at*” to refer to the *hillaẓon* of *tekbelet* (*Sanbedrin* 91a, s.v. *hillaẓon*). Rashi’s use of the term “worm” to explain the *hillaẓon* implies that there exists between the two some fundamental similarities – e.g., size, locomotion, etc. By combining Rashi’s comments, we have a statement linking culpability for trapping with the *hillaẓon*, which is a worm-like creature.

<sup>67</sup> A few examples: On Isaiah 41:14, Rashi translates *tola'at* as “Vermina” or “little worm” (Joseph C. Greenberg, *Foreign Words in the Bible Commentary of Rashi* [Jerusalem, 1992]). On Hoshea (5:12, s.v. *rekev*) he refers to “a *tola'at* that eats wood” – apparently a termite. On Mishlei (12:14, s.v. *rekev*) he mentions “a *tola'at* that goes inside bones and grinds them” – apparently a maggot. On *Makkot* 16b (s.v. *einiba*) he refers to a worm found in cabbage. On *Hullin* 28a (s.v. *mai lav*) he mentions “a big *tola'at* in wool called tinea” – obviously referring to the *Tineidae* family of clothes moths. On *Hullin* 85b (s.v. *yaniva*) he refers to “a *tola'at* that eats linen; ‘Tayish’ in Old French,” meaning a clothes moth (Yisrael Gukovitzki, *Translation of Foreign Words in Talmud and Humash* [London, 1992]). If the reference is to *tola'at shani*, this, too, is a small slow moving insect – the kermes scale insect (see fn. 69 below).

<sup>68</sup> There seems to be support for such a dichotomy from the structure of the *mishnah* in *Shabbat* in that that first half discusses *sberazim* and the second half birds and animals. Furthermore, the *mishnah* only brings up the issue of “trapped and standing” in its discussion of birds and animals (see Rashi s.v. *hayah ve-of bi-reshuto*, R. Ovadya mi-Bartenura on the *mishnah*; Gra, *Shenot Eliyahu* on the *mishnah*). From the *gemara* (*Shabbat* 106b) which discusses grasshoppers, *giz'in*, hornets and mosquitoes – all *sberazei ha-of* – along with

animals and birds, it would seem that they are not included with the *sheraẓei ha-areẓ* and *sheraẓei ha-mayim* discussed in the *mishnah*.

<sup>69</sup> The kermes scale insect – believed to be the source of *tola'at shani* – attached to host trees in such a way that they must be extracted by force; “the women employed in collecting the insects let their nails grow long to facilitate the job” (Gosta Sandberg, *The Red Dyes*, [NC: Lark Books, 1997], 60). The Septuagint (Ex. 25:4-7, 26:1) translates *tola'at shani* as “*kokkeinon*” – the Greek word used to refer to kermes dye; R. Sa'adyah Gaon (Ex. 25:4) explains the words *tola'at shani* as “the color kermes.” R. Ovadyah mi-Bartenura (*Negaim* 14:1) states that *shani tola'at* is “kermes,” as does Rambam (*Kil'ayim* 9:1). See also R. D. Lillie, “The Red Dyes Used by the Ancient Dyers: Their Probable Identity,” *JSDC* (Feb., 1979), 60 and Israel Ziderman, “Biblical Dyes of Animal Origin,” *Chemistry in Britain* 22(5), (1986), 419-22.

<sup>70</sup> *Shemirat Shabbat ke-Hilkhatab*, (Jerusalem, 1989) ch.27, n.145.

<sup>71</sup> *Tikumim u-Miluim li-Shemirat Shabbat ke-Hilkhatab*, *ibid.*, ch.27, n.145.

<sup>72</sup> *Netiv* 12, *Helek* 10, 82.

<sup>73</sup> *Meorot Hadaf Hayomi*, #325, 2 (I am indebted to R. S. Taitelbaum for reviewing this article and for bringing this source to my attention).

<sup>74</sup> (Jerusalem, 1999), 316, n.2.

<sup>75</sup> *Orhot Shabbat*, ch.14, n.21.