

# שו"ת מהרש"ם

## THE MAHARSHAM PROJECT

*Weekly Teshuvah Insights from the Maharsham of Brezhan*

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### THE SHOCHET AND THE SEVENTH GOOSE

A shochet makes a catastrophic error, tries to cover it up, and seven geese hang in the balance.

A shochet was given seven geese. He shechted six.  
Then, thinking the job was done, he cut the legs off all seven.  
Suddenly someone shouted: "Look! one of them is still alive!"  
The shochet had missed the seventh goose.  
He quickly shechted it, brushed off the concern, and mixed all seven geese together.  
By the time the Rav heard what had happened, two of the geese had already been sold.

Now the question was no longer simple. One goose may have been dismembered while still alive.  
The shochet's reliability was now in doubt. The seven geese were mixed together. Two were already in buyers' hands. Every bird was under suspicion.

And the Maharsham had to decide: **Could any of these geese still be eaten?**

**To Rav Alter Shapira, Av Beis Din of Vikna (Vijnița) in Bukovina.**

#### THE QUESTION

Someone noticed the seventh goose was still alive. The shochet brushed it off. "There is no problem with the geese," he said. "The only issue is the legs."

Vijnița sits in the Bukovina region (today in western Ukraine).

Note also the remarkable appearance of the Maharsham's grandson R' Moshe, who inserts his own analytical challenge directly into the body of the teshuvah.

He then shechted the seventh goose and allowed all seven birds to be mixed together. But there was a much bigger question hiding underneath the first one: if the shochet had not even realized that he was cutting the legs off a living bird, could anyone still trust his shechitah on the other six?

After two of the seven geese had already been sold, Rav Shapira heard what had happened. He notified everyone involved, and now had to decide: What is the status of all seven geese?

The problems piled up quickly. The legs cut from the living goose were **ever min hachai** — limbs taken from a living animal, an issur dioraisa. The seventh goose itself had now been shechted by a shochet whose reliability was in question. All seven geese had been mixed together, with no way to identify which was which. And two of them were already in buyers' hands.

Rav Shapira now turned to the Maharsham, one of the great poskim of the generation, and asked: **Could any of these geese still be permitted?**

## THE MAHARSHAM'S ANALYSIS

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### 1. Can One Bad Goose Be Nullified?

The first issue was simple in theory. When one prohibited item becomes mixed into a majority of permitted items, halachah generally says the prohibited item is nullified — batel b'rov. Here, there were seven geese. At most, one was clearly problematic. So why not say that the one questionable goose is nullified among the other six?

But Rav Shapira raised the complication that could undo everything. A whole goose might be considered a *chatcha ha-re'uya l'hiskabeid* — an important piece of food, “fit to serve before an honored guest.” Such an item is not nullified, no matter how many permitted pieces surround it. Its importance gives it independent halachic standing. If the questionable goose has that status, the majority cannot help. Without that problem, the goose is batel. With it, the entire mixture remains stuck.

### 2. Did Bitul Happen Before Anyone Realized There Was a Problem?

The next question was timing. When the geese were first mixed, no one had yet treated the situation as a real issur problem. The birds still had their feathers. They looked alike. The question is: does bitul happen automatically at the moment of mixture, even before anyone realizes there is a prohibition involved? Or does it only begin once the problem becomes known?

The Bach rules that if a mixture is later split before the prohibition becomes known, each separated group can be judged on its own. In each group, we can still say: perhaps the forbidden item is somewhere else. The Shach disagrees, but the Maharsham notes that important poskim support the Bach, including the Shulchan Aruch HaRav. That matters here because the seven geese did not remain together. Five stayed with the owner, and two were sold before anyone realized the problem.

### 3. Did Selling Two Geese Help?

At first glance, the buyer who received two geese has a strong argument. Since six out of seven geese were presumed kosher, perhaps we apply *kol d'parish mei'ruva parish* — whatever separates is presumed to have come from the majority. In plain English: if something leaves a mixed group, we assume it came from the larger, permitted side.

But the Maharsham sees the danger in that. If we clear the buyer's two geese by saying they probably came from the kosher majority, then we have made the remaining five worse. The doubt has not

disappeared; it has simply been pushed back onto the owner. You cannot easily solve one person's problem by making the other person's problem heavier.

Still, the Maharsham finds room to distinguish this case. If the forbidden goose had already been known before the geese separated, then the mixture might have been frozen in place as a case of *chatcha ha-re'uya l'hiskabeid*, where nullification does not work. But here, when the geese were mixed and when the two were sold, the birds still had their feathers. An unplucked goose is not exactly a dignified dish to serve an honored guest. The full "important piece" problem may only have developed later, once the birds were prepared and presentable. That weakens the strict side.

#### **4. Is a Whole Goose Really an "Important Piece"?**

This becomes the heart of the analysis. The Beis Yosef cites Rishonim, including the Rashba and the Ran, who hold that a live, whole creature is not considered *chatcha ha-re'uya l'hiskabeid*. The Badei HaShulchan also writes that since this entire category is rabbinic, we should follow the lenient view in cases of doubt.

The Rama, however, rules stringently, and that strict practice is well established. A whole goose or chicken can be considered important because it was once customary to honor a guest at a *chasunah* or *siyum* with a whole bird. But the Maharsham makes a sharp observation: that reasoning depends on social practice. If the whole category is built on the custom of serving an honored guest a whole bird, then what happens when that custom is no longer common?

The Maharsham says that in his time, this was no longer the practice. People were not honoring guests that way anymore. That does not erase the Rama, but it does weaken the force of the stringency — especially in a difficult case involving financial loss.

#### **5. Two Rabbinic Stringencies Stacked Together**

Now the Maharsham's path to be *meikel* becomes clearer. The strict position depends on two separate rabbinic layers. First, the rule that *bitul* does not help after the *issur* becomes known is *derabannan*, because on a Torah level, *bitul* works from the moment the mixture happens. Second, the rule that a *chatcha ha-re'uya l'hiskabeid* is never nullified is also a *derabbanan*.

That means this case is not a simple *deoraysa* standing alone. It is a *deoraysa*-level *bitul* being blocked by two *chumros* stacked on top of each other. The *Pri Megadim* allows more room for leniency when two rabbinic concerns combine in this way. So the Maharsham has several factors pointing in the same direction: the mixture may have been *batul* from the start, the "important piece" status is disputed, the birds were not yet presentable when mixed, and the old custom of honoring guests with a whole bird may no longer apply.

#### **6. The Grandson Pushes Back**

The Maharsham's grandson, R' Moshe, inserts a challenge: The whole lenient argument depends on saying that the *issur* was "not known" at the time the geese were mixed. But was it really unknown?

People had seen the seventh goose alive. They had questioned the *shochet*! The facts were already there. What was missing was not information, but proper halachic understanding of that information.

R' Moshe compares this to cases in the *Gemara* where something is technically unknown to one person, but known or discoverable elsewhere. If a sin will inevitably become known, is it considered hidden now? If a lost animal is unknown to its owner but known to someone far away, is it truly lost? R' Moshe

argues that this case was also destined to come out. A shochet cutting the legs off a live bird is not the kind of thing that stays quiet. Once a competent Rav looked at the facts, the problem became obvious. That challenge narrows the Maharsham's leniency. The Maharsham leaves his grandson's objection in the teshuvah, allowing it to stand as a serious warning: the case may be lenient, but it is not clean.



## THE P'SAK

The Maharsham rules that if the loss would be significant for the owner — **hefsed Merubah** — the five remaining geese may be permitted.

But he does not treat the case as simple. The leniency rests on several factors working together: the **bitul d'oraysa** that may have taken effect from the moment the geese were mixed; the Rishonim who hold that a whole live bird is not a **chaticha ha-re'uya l'hiskabeid**; the fact that the strict side depends on two rabbinic stringencies stacked together; and the Maharsham's observation that, in his time, whole birds were no longer the standard way to honor important guests.

In other words, the Maharsham found room to be *mattir* the birds in this specific context.

The ruling depends on real financial loss. Without that, he does not present this as an easy heter. The five geese remaining in Vikna were not automatically lost, but neither were they casually permitted. The Maharsham allows them only because several halachic pressures point in the same direction.

And even after the geese were dealt with, the deeper problem remained: the shochet had either made a terrible mistake or had tried to cover it up. The Maharsham addressed the kashrus of the geese. The kashrus of the shochet was left for Rav Shapira to face.



## HISTORICAL CONTEXT

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This teshuvah gives us a glimpse into how fragile the kosher meat supply could be in a small Galician or Bukovinian town. The shochet was not just another worker. In many communities, he was the person standing between having what to eat... or needing to subsist on bread and vegetables.

So when his judgment came into question, the problem did not stay private. It spread outward — to families, buyers, money already spent, food already prepared, and a Rav who now had to decide whether to be strict and create a real financial loss, or find legitimate halachic grounds to save what could still be saved.

The shochet's behavior is hard to read generously. He dismissed the concern, shechted the seventh goose as if nothing serious had happened, and allowed all seven birds to be mixed together. That suggests either shocking carelessness... or something even worse.

The Maharsham does not directly rule on whether this shochet was fit to continue serving as town shochet (What do you think?). But the careful, conditional nature of his psak says a great deal. He treats the geese as a case that may be rescued, not as a routine question with an easy answer.

And then there is the appearance of the Maharsham's grandson, R' Moshe. That small detail opens a window into the Maharsham's home and his chinuch — where the next generation's voice could stand beside his own, not hidden, but preserved in the sugya.

## KEY TERMS

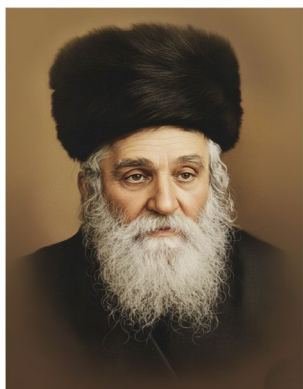
**Chaticha ha-re'uya l'hiskabeid** — Literally, "a piece fit to serve before an honored guest." A halachic category for items considered too important to be nullified in a mixture, regardless of ratio. Whether a whole goose qualifies is the central dispute of this teshuvah.

**Bitul b'rov** — Nullification by majority. When a prohibited item is mixed with a majority of permitted items, Torah law treats the prohibited item as nullified. Rabbinic law adds conditions.

## FOR THE SHABBOS TABLE

The Maharsham's leniency depends partly on a change in social custom. A whole bird was once considered an honorable dish to serve an important guest; in the Maharsham's time, he says that was no longer the common practice. When a halachic category depends on how people actually behave, how should poskim decide whether the reality has changed?

The shochet dismissed the concern, shechted the seventh goose, and allowed all seven birds to be mixed together. The Maharsham's teshuvah focuses on the geese, not on the shochet. What do you think Rav Shapira had to do next?



## WHO WAS THE MAHARSHAM?

Rabbi Shalom Mordechai HaKohen Schwadron (1835–1911) served as the Rav of Brezhan in Galicia for over 40 years. He is best known for his seven-volume *Shut Maharsham*, containing thousands of teshuvos on every area of halachah, and his *Da'as Torah* commentary on *Shulchan Aruch*. Regarded as one of the foremost poskim of his generation, his rulings are cited in halachic works to this day.

**Coming next week: A flash flood tears a family from their home. Days later, a battered body washes up downstream. Can scars, teeth, and torn clothing free a young agunah to remarry?**

## PRINCIPAL SOURCES CITED

Gemara: Chullin 8a, 95; Zevachim 23a; Shevuos 9b; Temurah 22b; Beitzah; Yevamos 82b

Rishonim: Rashba; Ran; Ramban; Rosh; Sefer HaEshkol (Hilchos Ta'aruvos 29); Or Zarua (Perek Gid HaNasheh 458); Sefer HaTerumah (50); Tosafos Shulchan Aruch & Nesei Keilim: YD 100, 101, 109, 110, 111; Shach; Taz; Sifsei Da'as; Pri Megadim; Rama; Beis Yosef

Acharonim: Bach (109); Shulchan Aruch HaRav; Imrei Eish (38); R' Moshe Schick (125); Badei HaShulchan; Terumas HaDeshen

A posek cannot save the meat and ignore the man who mishandled it. The geese were rescued; the harder question walked out the door with the shochet.

**This translation is presented for Torah study and enrichment purposes only. It is not intended as halacha l'pmaaseh. The translator has made every effort to render the Maharsham's words faithfully, but this English adaptation may contain errors or imprecisions. For any practical halachic question, consult your own Rav.**

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