The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן תצ"ז סעיף א'-ב'

Overview

Siman 497 Seif 1:

It is prohibited to catch fish from pools. Even in a place where they are trapped it is prohibited since the pool is wide and the fish can escape in all sorts of directions.

- The pool is surrounded on all four sides and it is certainly prohibited to take a fish from a river. (M.B. 1)
- Even if the pool is small and one would not have to call for a trap and in a similar circumstance birds and undomesticated animals are considered trapped they are not considered trapped since the fish are hidden from the eye and easily escape. Magen Avrohom asserts that if the water is clear and one does not require a trap it is permitted to grab one. Some authorities maintain that the fish are still muktzah. (M.B. 2)

Siman 497 Seif 2:

One may not give water or food to fish, birds and undomesticated animals that are muktzah out of concern that one will grab them and anything that is prohibited to eat or use because it is muktzah is prohibited to move.

- Shulchan Aruch's implication is that one may not feed the animals because they are muktzah but below (seif 7)
- He indicates that as long as the animal does not require trapping one may feed it and Pri Chadash writes that this position is the primary opinion to follow. (M.B. 4)
- Later authorities write that the restriction is to place food literally in front of them but food may be placed at a distance from them even though they will come and eat the food. (M.B. 5)
- Regarding non-kosher animals where there is no concern that one will eat it one may feed them. (M.B. 6)

Halacha Highlight

Changing the water in an aquarium

Shulchan Aruch Siman 497 Seif 1
אין צדים דגים מן הביברים
It is prohibited to catch fish from a pool

Shulchan Aruch (סעי' א') rules that one may not catch fish that are in pools. Even if the pool is small enough that one does not need a net to catch the fish, it is nevertheless prohibited to catch them on Yom Tov since the fish will be able to escape into holes and crevices to avoid capture. Consequently, halachically they are not considered captured and trapping is prohibited on Yom Tov. Additionally, since the fish will be able to elude capture, catching them will involve exertion (מ"ב סק"ב). Mishnah Berurah (סק"א) also mentions that fish that one may not capture on Yom Tov are muktzah.

Based on Mishnah Berurah's ruling that fish that one may not capture are muktzah Rav Shlomo Zalman Auerbach (שש"כ פכ"ז הע' צ"ח) ruled that it is prohibited to change the water of an aquarium. Fish in an aquarium are a decoration and certainly not for eating; thus they are muktzah and may not be moved by hand to change the water. One may not even leave some water in the aquarium and replace a majority of it with fresh water since the water in the tank is muktzah. He bases this conclusion on Sha'ar HaTzion's ruling (654:3) that the water that one uses to keep his lulav fresh is muktzah since it serves the lulav that is muktzah. He notes that Chaye Adam permits changing the water for fish on Yom Tov but asserts that Chaye Adam was referring to fish one was keeping in order to eat. He would agree, however, that if one had fish in an aquarium for decorative purposes it would be prohibited to change the water. Sefer Ketzos HaShulchan (סי' קכ"א סק"ד), however, implies that it is permitted for one to change water in an aquarium as long as one does not have to move the fish by hand since moving the fish would violate the restriction of moving muktzah.

Stories to Share

The Wandering Flock

ש"ע תצ"ז, א: "לפי שהביבר רחב הרבה והדגים נשמטים אילך ואילך..."

Handling animals is often very difficult, especially on Yom Tov when animals are muktzeh and it is forbidden to trap them, as we find on today's amud. Even if an animal runs away from its master, it is forbidden to trap it if it will not return to its owner's home of its own volition at some point.

One man purchased a few animals not long before Yom Tov. The animals were somewhat unruly and had a penchant to leave his property. Since they were not accustomed to returning, he had to find a way to return them time after time.

Unfortunately, on Yom Tov the animals once again managed to break out of his very large property. The man was in a quandary as what he should do. He could easily find a way to herd them together to get them into his enclosed property, but he wondered if this was a violation of the prohibition to hunt on Yom Tov. Although it was clear that this does not constitute a Torah violation, he wondered if doing this violated a rabbinic decree. After all, the creatures would certainly be more contained inside than they would have been outside his property. On the other hand, they would not actually be trapped, just gathered back into his large parcel of land.

When this question reached Rav Shlomo Zalman Auerbach, he ruled that this is permitted. "Is there some kind of rabbinic prohibition to transfer fish from the sea to a very large pool of water? It seems obvious that if it is just as hard to catch the creature when it is transferred, he has not transgressed this prohibition."

שלחן שלמה, הל' יו"ט, ע' ס"ב