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

Overview

Siman 497 Seif 3:

Even if one is uncertain whether an animal was trapped it is prohibited. For example, if a trap to catch an undomesticated animal, fish and birds was set before Yom Tov and the next day one discovers an animal in the trap it is prohibited unless it is known that it was trapped before Yom Tov. If the trap was found tripped before Yom Tov it is known that the animal was trapped before Yom Tov.

- Even though according to many Poskim trapping on Yom Tov is not Bibliclally prohibited, nevertheless, they were stringent in cases of doubt since the animal will be permitted after Yom Tov (דבר שיש לו מתירין). (M.B. 7)
- It may not even be moved but it is permitted for consumption immediately after Yom Tov. Later authorities agree that the same halacha applies for uncertainties that relate to muktzah and nolad. (M.B. 8)
- Even though one does not see anything trapped, nevertheless, a tripped trap indicates that an animal was captured. (M.B. 9)

Siman 497 Seif 4:

If there is a doubt whether something was prepared before Yom Tov or not it is permitted on the second day of Yom Tov due to a s'feik s'feika.

- On the second day of Rosh HaShanah it is prohibited, as well as when Yom Tov Sheni is before or after Shabbos. (M.B. 10)
- Some authorities disagree and contend that since we observe the second day of Yom Tov as a custom and not out of doubt there is a single doubt and one must be stringent. One should be stringent in accordance with this view. (M.B. 11)

Siman 497 Seif 5:

If one stopped up a stream of water at its entrance and its exit before Yom Tov one may take fish from that stream on Yom Tov since they are considered trapped (since the stream is narrow and the fish could not escape.)

- Since one stopped up the stream the fish are not muktzah. If one intended on using all the fish one may catch some fish and put back the ones one does not want. If one did not intend on using all the fish he may not catch some and put back fish he does not want; rather he must use all the fish that he catches. (M.B. 13)
- Other authorities write that if it is six tefachim wide it is prohibited but if it is more narrow it is permitted regardless of its length. Some are stringent to catch fish only with their hand and one should be mindful of this opinion. There is an opinion that maintains that this restriction applies only in pools and streams but fish that are in a vessel are not subject to the prohibition of trapping and it is permitted even if one needs a trap to catch them. (M.B. 14)

Halacha Highlight

A circumcision on Yom Tov Sheni

Shulchan Aruch Siman 497 Seif 4

ספק מוכן מתר ביום טוב שני

Something about which it is doubtful whether it was prepared on Yom Tov Sheni

Shulchan Aruch (סעי' ד') rules that if there is a doubt whether an animal was designated for eating on Yom Tov or not one may adopt a lenient position with regards to Yom Tov Sheni since it is a s'fek s'feika. Mishnah Berurah (סק"י יי"א) explains that one doubt is whether Yom Tov Sheni is in fact Yom Tov and the second doubt is that perhaps the animal was designated before Yom Tov. This s'fek s'feika is so strong that it is not even considered as though there is something prohibited present and it is not considered a davar she'yesh lo matirin – an prohibited item that will in the future become permitted – which is treated stringently.

In a case where a boy was born during bein hashemashos and Yom Tov Sheni is either the eighth or ninth day since the baby's birth, Shulchan Aruch (יו"ד סי' רס"ו סעי' ח') rules that the bris milah may not be performed. Dagul Mirvava explains that although the question involves a s'fek s'feika (perhaps Yom Tov Sheni is the baby's eighth day and even if its not perhaps Yom Tov Sheni is actually a weekday), since the question involves a possible Torah prohibition and after Yom Tov it is certainly permitted to perform a circumcision (davar she'yesh lo matirin) one must be stringent. In contrast our case only involves a Rabbinic prohibition so one may be lenient. Noda B' Yehudah (מהדו"ק או"ח סי' ל') in the name of Pri Chadash contends that Shulchan Aruch maintains that when there is a s'fek s'feika one may be lenient even with regards to a Biblical prohibition even in a case of davar she'yesh lo matirin and the reason Shulchan Aruch ruled that the circumcision may not be performed on Yom Tov Sheni is that he referred to where the child was born during bein hashemashos of erev Shabbos and Yom Tov Sheni falls on Monday. As such the circumcision is certainly not taking place on the eighth day; therefore, it may not be performed on Yom Tov Sheni.

Stories to Share

Fish in a Barrel?

מ"ב, ס' תצ"ז, ס"ק י"ד: "ה"ה אם הכניס ..."

Without electricity, it is difficult to store meat, and animals must be freshly killed . Although it is preferable not to shecht animals on Yom Tov, there is no such limitation regarding fish. Of course, one who wants fresh fish must find a way to keep them that will not violate the prohibition against trapping when it comes time to use them. This can be difficult, especially if one requires an abundance of fish which need a fairly large space in which they can swim.

One man who required an abundance of fresh fish for Yom Tov had an excellent idea. He figured that if he were to place the fish that he would need for Yom Tov in a large pool, it would be permitted to drain the pool and take the fish. After all, aren't the fish already caught if all one has to do is pull the drain?

When he mentioned this to a local rav he mentioned a case from today's amud. "I would presume this is not an acceptable option. The Mishnah Berurah mentions a case of one who placed the fish inside a large metal box with holes in it to avoid the problem of trapping the fish—since he can just pull the box out of the water. He mentions that some permit this practice while others forbid it."

But when this question was brought before Rav Shlomo Zalman Auerbach he ruled that it may be permitted according to both opinions. "It is plausible that if one can remove the water with a very slight effort, this is not considered trapping according to any authority. Even though draining the pool is also an act of trapping, since it is so easy, the fish are considered as if they were already trapped."

הליכות שלמה, הל' יו"ט, ע' ס"ה