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

Overview

Siman 497 Seif 6:

Geese, chickens and pigeons that are in one's home or yard that are designated for eating may be trapped and do not require explicit designation.

- In other words they are raised in one's home. (M.B. 15)
- If one purchased these birds without any specific designation in mind they are permitted since they are commonly eaten. (M.B. 16)
- They may be captured in the public domain even if a trap is necessary but only if the animal is captured for slaughter. Chaye Adam permits capturing birds that are standing on a beam at night since they will not escape. (M.B. 17)
- Poskim write that one who is G-d fearing will decide before Yom Tov which bird he wants to trap so that on Yom Tov he will not pick up a bird and then decide to use another one since this involves unnecessary exertion. (M.B. 18)

Siman 497 Seif 7:

Other undomesticated animals and birds that are not trapped and require a trap to capture them may not be trapped nor may one feed them. If they do not require trapping it is permitted to capture them and feed them.

- In siman 316:4 the definition of "requiring a trap" is presented. Following that definition if a bird is in a narrow place so that it could be captured with a single reach but there is an open window or roof from which it could escape, it is prohibited to capture that bird. (M.B. 19)

Halacha Highlight

Birds that one raises in his house

Rema Siman 497 Seif 6

אוזים ותרנגולים ויוני שבבית

Geese, chickens and pigeons that are in one's house

Shulchan Aruch (סע' ו') rules that geese, chickens and pigeons that one has in his home for eating may be captured on Yom Tov and it is not necessary to designate them for eating before Yom Tov. The reason designation is not needed is that they are already considered prepared for the purpose of eating and as such are not muktzah (מ"ב ס"ק י"ח). These birds may be captured even in the public domain and it is permitted even if it is necessary to use a trap or a net to capture them. Mishnah Berurah (הנ"ל) cites authorities who write that one who is G-d-fearing will decide before Yom Tov which birds he will choose to eat on Yom Tov since capturing birds only to put them back down in favor of another bird involves unnecessary exertion which one should avoid on Yom Tov.

The basis of this leniency is that since they return back to their cage at night and they are fed in the owner's home it is considered as though they are already captured (מ"ב ס"ק י"ז). Rav Shlomo Zalman Auerbach (שלחן שלמה ס"ק י"א) writes that it is not necessary for the birds to return to their cage every night for them to be considered captured. Even if they return to their cage once a week they can be considered captured for these purposes and the birds are categorized as captured. Mishnah Berurah in his explanation implies that two prerequisites are necessary for this halacha to apply; the bird must return to its cage and one must feed the birds. This is clearly indicated in Biur Halacha (ד"ה אוזים ותרנגולים וכו'). However, elsewhere (סי' שט"ז ס"ק נ"ג ובשעה"צ ס"ק פ"ב) Shulchan Aruch implies that as long as the bird returns to its cage at night it is sufficient even if one does not provide food for the birds.

Stories to Share

Cruelty to Animals

מ"ב, ס' תצ"ז, ס"ק ט"ז: "לאפוקי אם הם עומדים לביצים אסור למאן דאוסר מוקצה"

Dealing with runaway chickens can be very difficult, especially on Yom Tov, when trapping is forbidden.

One religious kibbutz had numerous chickens that they kept for egg-laying. Whenever a chicken managed to get free on Yom Tov they had serious problems. How could they convince the bird to leave the forest—which presented plenty of dangers to it—and get back to its coop? Although there is no problem of trapping with a domesticated bird that will eventually return home, it is forbidden to move a bird designated for egg-laying because of muktzeh, as we find on today's amud.

When the local rabbi learned an interesting halachah in the writings of the Chazon Ish, he thought that he might have found a solution to the problem. "The Chazon Ish ruled that one may transgress the prohibition of muktzeh on Yom Tov to return his animals to his property to avoid צער בעלי חיים. I wonder if the same applies here? After all, it is possible that something will befall the animal before it returns home. If one has no other recourse, perhaps he can carry it home?"

But he did not wish to take responsibility for this interpretation on his own. The halachic process is complex and the slightest detail, easily missed, can make a big difference.

When this question reached Rav Shlomo Zalman Auerbach he tentatively agreed with the application. "It seems logical that this is permitted."

שלחן שלמה, הל' יו"ט, ס' תצ"ז, ע' ס"ו