The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Mon, May 30 2022 ■ כ"ט אייר, תשפ"ב
סימן תצ"ז סעיף י"ד-ט"ו

Overview

Siman 497 Seif 14:

If one designated birds in a nest and they were discovered in front of the nest they are prohibited but if there is no other nest nearby they are permitted. This applies if the birds hop but if they are capable of flying they are prohibited. Even when there is another nest within fifty amos but it is around a corner so that it is not visible from the first nest, since the birds hop rather than fly they are permitted because young birds do not hop to a place where they cannot see their nest. (If one designated birds in a nest and they are discovered by the entrance to the nest they are permitted.)

- Since they were not found in their place there is a concern that the designated ones flew away and the ones that were discovered came from elsewhere. (M.B. 42)
- Nearby means within fifty amos. (M.B. 43)
- Shulchan Aruch refers to where they fly only a little because if they fly normally designation is not effective. (M.B. 45)

Siman 497 Seif 15:

If a gentile brings a gift of young pigeons from dovecotes that are in the city to a Jew on Yom Tov they are permitted since these birds do not require trapping.

- For a Jew the only prohibition is that one decided not to use them on Yom Tov but a gentile does not have that thought so they are considered "prepared." If the gentile brought them from outside the techum they are prohibited for the one for whom they were brought but permitted for others (M.B. 48)

Halacha Highlight

Receiving a bird as a gift on Yom Tov

Shulchan Aruch Siman 497 Seif 15

אינו יהודי שהביא דורון לישראל ביום טוב

If a gentile brings a gift to a Jew on Yom Tov

Shulchan Aruch (סע' ט"ו) discusses the permissibility of accepting a gift of birds from a gentile on Yom Tov. He rules that if the birds are young and were brought from dovecotes in the city he may accept them. The reason is that young birds that do not fly do not require capturing so that melachah was not performed for the benefit of a Jew. Regarding the prohibition of muktzah, since they were owned by a gentile the prohibition of muktzah does not apply since the gentile does not set aside the bird from use before Yom Tov, therefore, they are considered "prepared" for Yom Tov use (מ"ב ס"ק מ"ח). Mishnah Berurah (שם) adds that if the birds were brought from outside of the techum the one for whom they were brought may not use them but they are permitted for others.

In the event that the gentile brought birds that are mature and capable of flying they would be muktzah according to all opinions. Since mature flying birds require trapping, they are subject to the prohibition of muktzah even though they belonged to a gentile (ע' סי' ש"י ס"ק י"ב). For this reason Shulchan Aruch rules that even if the gentile captured the bird with the intent to use it for himself and subsequently decided to give the bird to a Jew it is prohibited (סי' תקט"ו סק"ג). In the event that the gentile captured a mature bird with the intent of giving it to a Jew it is prohibited for another reason as well. This is based on the standard restriction against benefitting from a melachah that a gentile performed on behalf of a Jew. The basis for this injunction is the concern that if one could benefit from a melachah a gentile performed for a Jew he may eventually ask the gentile to perform the melachah on his behalf.

Stories to Share

The Price of a Gift

ס' תצ"ז, ט"ו: "אינו יהודי שהביא דורון לישראל..."

The Tchebiner Rav was famous as a profound scholar who often could answer questions that seemed impenetrable with ironclad and totally original proofs. Rav Eliyashiv, zt"l, spoke of him with the highest regard, describing him as "vastly erudite."

One time, Rav Yechezkel Sarna, the Rosh Yeshiva of Chevron, had a question for which he could find no clear answer. When he met the Tchebiner Rav, he immediately asked him. "The verse states that one who hates gifts will live. I am unsure whether this applies only to gifts from a Jew, or even a gift from a non-Jew."

The Tchebiner Rav immediately replied that this is only relevant to a Jew's gift. "The Sm"a, zt"l, wonders why refraining from taking gifts should lengthen one's life. He explains that one who accepts a gift will be unable to give rebuke to the one who gave him the gift. If there will be a need for rebuke and he otherwise would have been able to help this person return to Hashem, this is a serious dereliction of his obligation as a Jew.

"Since Rashi in Sanhedrin 75 writes clearly that there is no mitzvah to rebuke a non-Jew, one who takes gifts from a non-Jew does not violate 'ישונא מתנות יחיה'!"

כוכבי אור, לך-לך, תשס"ה, ע' א'