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

Overview

Siman 498 Seif 3:

Animals which graze outside of the techum but return and sleep within the techum are considered prepared and one may take them and slaughter them on Yom Tov. However, those that graze and sleep outside of the techum that show up within the techum on Yom Tov may not be slaughtered on Yom Tov since they were set aside and people did not have intent to use them. These parameters apply to Jewish owned animals but gentile owned animals are not set aside from their mind since a gentile is not obligated to prepare his items. If, however, it was brought in from outside of the techum for a Jew it is prohibited. Therefore, if a gentile brings an animal to the place where animals are slaughtered – מקולין, if one knows that the animal came from outside of the techum it is prohibited. If one is uncertain the animal may be slaughtered even if it was brought for the needs of a Jew since we adopt a lenient position when faced with uncertainty regarding a matter of muktzah. If the animal was brought for a gentile or without anyone in mind but the majority of the city residents are gentiles it is permitted since animals are imported for the needs of the majority.

- As long as the animals return occasionally it is sufficient for them to be considered prepared. (M.B. 12)
- Even though one did not think about the animals during bein hashemashos, it is permitted since they are considered household animals. (M.B. 13)
- These are animals that graze outside of the techum until Cheshvan and then they return. During the summer they are muktzah. (M.B. 14)
- Shulchan Aruch refers to where there is no issue of techumin. (M.B. 15)
- According to the position that there is no muktzah on Yom Tov the animals are permitted. Some authorities write that according to all opinions the animals are prohibited. (M.B. 16)
- Even if the gentile's animals spend the summer grazing outside of the techum there is no issue to slaughter them. (M.B. 17)
- It is at least prohibited for the one for whom the animal was brought from outside of the techum but for others it is permitted. (M.B. 18)
- It should say that this halacha applies when it is known that the animal was imported from outside of the techum but not when there is a doubt about this matter, therefore… (M.B. 19)
- If one is uncertain whether this animal was brought by the gentile from outside the techum it is not prohibited. (M.B. 20)
- This refers to a city whose majority of residents are Jewish so it is assumed that the animal was brought for the Jews. (M.B. 22)
- In other words if there is a doubt whether the animal was brought from outside of the techum one may be lenient but when it comes to uncertainties whether an item was prepared we follow the strict opinion. Shulchan Aruch follows the opinion that maintains that issues of techumin are treated leniently and we are not stringent when the matter is subject to doubt. Many later authorities note that elsewhere Shulchan Aruch adopts a stringent position about doubtful matters that relate to techumin. (M.B. 23)
- In such a case the animal is permitted even if the city is comprised mostly of Jews. (M.B. 24)

Siman 498 Seif 4:

Animals that are known to sleep outside of the techum and are found within the techum on Yom Tov are permitted since it is possible that it entered the techum before Yom Tov and were merely outside of the city. Certainly those that were slaughtered in the morning are permitted since it is presumed that it was brought in from outside of the techum the day before.

- Even if it is known that the animals that we see together with the gentiles generally sleep outside of the techum and the night of Yom Tov it was not yet in the city. (M.B. 25)
- Commentators maintain that it should say "יום טוב" rather than "יום שני". (M.B. 26)
- We assume that animal was brought into the techum before Yom Tov so that there would be no delay and additionally, it is uncommon to bring animals into the techum at night. This follows Shulchan Aruch's position that regarding matters of techumin we adopt a lenient perspective as long as it is not evident that the animal is prohibited. It was already noted that Shulchan Aruch sometimes adopts a stringent attitude regarding this matter. Magen Avrohom asserts that one should not be lenient unless the gentile lives in the city and he commonly has animals with him in the techum or on the second day when one may utilize a s'fek s'keikah. (M.B. 27)

Halacha Highlight

The muktzah status of pasturing animals

Shulchan Aruch Siman 498 Seif 3
אבל הרועות והלנות חוץ לתחום
But those that pasture and sleep outside of the techum

Shulchan Aruch (סעי' ג') discusses which animals are muktzah on Yom Tov and may not be slaughtered, and which animals are not muktzah and may be slaughtered on Yom Tov. He rules that animals that spend the summer pasturing outside of the techum and do not return until the month of Cheshvan are muktzah and may not be slaughtered even if they return on Yom Tov. The reason is that people dismiss these animals from their mind since they did not think that the animals would return. Mishnah Berurah (ס"ק ט"ז) initially asserts that those who maintain that restrictions of muktzah do not apply on Yom Tov would permit slaughtering these animals. He then relates that there is an authority who maintains that all opinions would agree that such an animal may not be slaughtered. Since these animals generally do not return during the summer they are similar to fruit that one spread out on his roof for them to dry which become muktzah until they finish drying.

In the event that the animal returned before Yom Tov and one decided that after Yom Tov he would return the animal to the field with the other animals and then decides on Yom Tov to slaughter the animal, Rav Shlomo Zalman Auerbach (מנחת שלמה ביצה מ.) ruled that it would be prohibited to slaughter the animal since it is muktzah. Similarly, if one Shabbos a person decides that he would like to use one of his Pesach utensils and make it chometzdik he may not use that utensil on that Shabbos since it is muktzah. Since it was muktzah at the outset of Shabbos it remains in that status for the remainder of Shabbos. He then distinguishes between the two cases. Regarding animals, when they wander in the pasture it is prohibited to slaughter them and as such it is muktzah. A utensil designated for Pesach is just as fit for chometz use as it is for non-chometz use and as such it retains its status as a utensil and thus is not muktzah.