

Trapping and Feeding Animals on שבת and יום טוב

(ביצה דף כ"ג:)

The opening line of the first משנה in the third פרק of מסכת ביצה mentions two prohibitions regarding fish found in ביברין (in this context, Rashi explains ביברין to mean springs of water where fish are raised): 1) trapping and 2) feeding. In contrast, the second line in the same משנה mentions that trapping and feeding are permitted when dealing with wild animals and birds that are found in their ביברין (in this context, Rashi explains ביברין to mean the animals' pens or enclosures wherein they are raised). In order to better understand the nature of these two prohibitions and why these two prohibitions apply in the ביברין only when trapping or feeding דגים, while trapping and feeding חיות or עופות there is permitted, one must begin by analyzing the comments of the relevant ראשונים.

ירש"י writes that although seemingly trapping fish on יום טוב should be permitted due to the fact that this is part of the food preparation process, nonetheless, since, in this case, the fish could have been trapped before יום טוב, trapping the fish on יום טוב is prohibited. Although slaughtering the fish

on יום טוב is often necessary so as to prevent the animal from rotting, it is not necessary to trap the fish on יום טוב, because the fish can be trapped and left in the water from before יום טוב. In contrast, although חיות and עופות may not typically be trapped on יום טוב, in the case discussed in this משנה, this is permissible because the חיות and עופות were already considered trapped from before the onset of יום טוב (the גמרא goes on to explain that our משנה is discussing a case where the עופות were already trapped inside a ביבר מקורה at the onset of יום טוב, as opposed to the תוספתא brought at the beginning of the גמרא which is discussing a case where the עופות were already trapped inside a ביבר שאינו מקורה, similarly, the חיות discussed in this משנה are already trapped in a ביבר קטן at the onset of יום טוב, as opposed to the תוספתא which is discussing a ביבר גדול).

מכשירי argue with רש"י, and write that only regarding מלאכה there exists a difference between that which could have been done before יום טוב and that which is done on יום טוב, however when it comes to נפש itself, even if the activity could have been done before יום טוב, it is permissible to perform this מלאכה on יום טוב. Thus, if the reasoning of רש"י was the only concern, since trapping a fish is considered נפש it would have been permitted to trap fish even לכתחילה on יום טוב. Nonetheless, תוס' explain that trapping fish is prohibited on יום טוב due to an alternate reason that trapping them is "דמי לקצירה." This means that just as regarding the bread making process any step that precedes the kneading of the bread, such as harvesting, is forbidden and is not included under the היתר of נפש, so too trapping fish, will be forbidden. Therefore, although slaughtering the fish is permitted, trapping the fish is

considered too early in the fish preparation process to be included under the היתר of אוכל נפש.

In addition to understanding the issue of trapping the fish mentioned in our משנה, It is also critical to understand the reason underlying the prohibition to feed these fish. רש"י (s.v. ואין נותנין) explains that it is prohibited to feed these fish because they are not dependent on this individual for sustenance.¹ רש"י points out that although some permit feeding animals based on the היתר של אוכל נפש, this היתר does not apply to animals regarding which one is not responsible to feed.

תוס' argue with the explanation of רש"י based on the answer the גמרא provides to a question on our משנה posed from the תוספתא. The תוספתא states that it is prohibited to trap and feed חיות and עופות found in ביברין. This statement appears to run in direct contradiction with the law mentioned in our משנה. The גמרא explains that our משנה which permits trapping and feeding חיות and עופות is discussing a ביבר קטן whereas the תוספתא which prohibits trapping and feeding the חיות and עופות is discussing a ביבר גדול. There, תוס'

¹ (אלה יוני שובך. s.v. שבת דף קנ"ה ע"ב to רש"י) explains that if one were to feed animals that are not dependent on him for sustenance this would constitute a יתירה טרחה.

points out that, at first glance, this answer only resolves the contradiction regarding trapping, whereas the contradiction regarding feeding appears to be left unresolved. תוס' therefore explains that these two issues of trapping and feeding go hand in hand because the reason why feeding these animals is forbidden is due to the concern that one will trap these animals. Thus, when it is forbidden to trap these animals there will be a corresponding prohibition to feed them, while when trapping the animals is permitted feeding the animals will be permitted as well.

תוס' also point out that the גמרא in ע"ב דף קנ"ה ע"ב in גמרא that there are certain animals regarding which there exists a prohibition to trap, yet one is permitted to throw food to feed these same animals. This teaching appears to contradict the rule that תוס' had previously formulated that the prohibition of trapping and the prohibition of feeding animals go hand in hand. תוס' explain that regarding שבת when אוכל נפש is prohibited no one would consider trapping these birds and thus feeding them is permitted, albeit trapping them is forbidden. Whereas on יום טוב since the laws of the holiday are more lax in the sense that אוכל נפש is permitted, if one were allowed to feed animals one might mistakenly come to think that trapping them would be permitted as well, and therefore both trapping and feeding are prohibited.²

² Interestingly, תוס' in ע"ב דף ק"ו ע"ב (s.v. ואין נותנין לפניהם) quotes from the ר"י who explains that the reason why it is permitted to feed the animals mentioned in the

The ³ שולחן ערוך writes that feeding animals on יום טוב will be forbidden if there is a corresponding prohibition to trap these animals. This reason is in accordance with the explanation presented by תוס' to ע"ב כ"ג דף ביצה. Nonetheless, it should be noted that the also ⁴ שולחן ערוך writes that one is only allowed to feed animals that are dependent on him for their sustenance. The ⁵ משנה ברורה explains that feeding animals that are not dependent on him for their sustenance would constitute a "טרחה שלא לצורך"--the same reason that ⁶ שבת דף קנ"ה ע"ב to רש"י presented.

in גמרא is because they are already considered trapped on a Torah level (albeit, on a rabbinical level, trapping them is still prohibited), whereas the animals mentioned in ע"ב ק"ו דף שבת along with the fish mentioned in ע"ב כ"ג דף ביצה may not be fed due to the fact that even on a biblical level these animals are not yet trapped, and therefore there exists a concern that by feeding them one may come to violate the biblical prohibition of trapping. It is interesting to note that although the answer of תוס' here appears to appropriately explain all of the different texts, this distinction is not recorded in the שולחן ערוך.

³ In 'או"ח סי' תצ"ז סעיף ז

⁴ In 'או"ח סי' שכ"ד סעיף י"א

⁵ ibid. ס"ק כ"ט

⁶ Interestingly however, the שולחן ערוך also writes earlier (דגים ועופות וחיה שהן מוקצה אין משקין (ב' 'או"ח סי' תצ"ז סעיף ב'))

Thus, although many ראשונים may argue to determine what is the underlying issue behind each of the prohibitions mentioned in the different sections of the גמרא, with regards to the final הלכה it appears clear that the שולחן ערוך believes that both issues of טרחה שלא לצורך along with the concern of שמא יצוד must be considered before feeding animals on שבת and יום טוב.

משנה There the אותן ואין נותנין לפניהן מזונות שמא יבוא לקח מהם מוקצה s.v. “ואין נותנין לפניהן מזונות” s.v. שבת דף ק”ו ע”ב. Nonetheless, although the שולחן ערוך appears to link the issue of feeding animals with that of מוקצה, the ביאור הלכה (s.v. דגים ועופות) argues that it is not clear that this is what the שולחן ערוך intended and that even if perhaps the מחבר did intend to link these issues there would be no need for one to concern himself with the issue of מוקצה when determining whether or not he is permitted to feed an animal on י”ט.