

רבי¹ אלעזר אומר בזמן שהן בני תרבות אינן מועדים –

מועדים states when they are domesticated they are not ר"א

OVERVIEW

ר"א maintained in our משנה that all the wild animals can be domesticated (however the snake is always a מועד). תוספות will mention some seemingly contradictory statements from סנהדרין and will resolve them.

תוספות asks:

תימה דבריש פרק קמא דסנהדרין (דף ב,א ושם) תנן הארי והזאב והדוב כולי -

It is astounding! For in the beginning of the first פרק of סנהדרין the משנה מסכת teaches concerning the lion and the wolf and the bear, etc. (that) -

רבי אלעזר אומר כל הקודם להורגו זכה -

ר"א maintains whoever precedes to kill them is meritorious -

ומפרש רבי יוחנן בגמרא (שם טו,ב) אף על פי שלא המיתו -

And ר"י, in the גמרא, explains that ר"א's ruling is valid even if these animals did not kill yet. The reason ר"י gives why they should be killed is because -

דאין להם תרבות ואין להם בעלים² -

They cannot be domesticated and they have no owners. This is an apparent contradiction! In our משנה it is the opinion of ר"א that these wild animals can be domesticated, however in the משנה of סנהדרין, ר"א maintains (according to ר"י) that they cannot be domesticated (and may even be killed unilaterally).

תוספות answers that there is no contradiction:

ואומר רבינו יצחק דהכא גרסינן רבי אלעזר שהוא אחר רבי מאיר³ -

And the ר"י answered that here the text reads ר' אלעזר (without a יו"ד) who lived after ר"מ -

והתם גרסינן רבי אליעזר שהוא קודם רבי עקיבא דקתני בתריה רבי עקיבא אומר -

And there (in סנהדרין) the text reads ר' אליעזר (with a יו"ד) who preceded ר"ע (who was the רבי of ר"מ), for the משנה mentions ר"ע אומר after first mentioning ר"א, indicating that it is (ר' אליעזר (בן הרוקנוס) the רבי of ר"ע.

¹ The marginal note indicates that this תוספות is referencing the משנה.

² See סוכ"ד who explains that we cannot answer that our גמרא is discussing a case where the owners domesticated them, however the גמרא there is discussing a case where they were not domesticated (and the term אין להם תרבות would mean [not that they cannot be domesticated, but rather] the owners did not domesticate them. This resolution is unsatisfactory, for since these animals can be domesticated it would seem unreasonable to rule that כל הקודם להורגו זכה; why should they be killed if they can be domesticated!

³ In the סנהדרין on ברייתא, he mentions ר"א (who says אף הנחש) after ר"מ (who says אף הצבוע).

תוספות has an additional question:

מיהו אכתי קשה דהתנן והנחש מועד לעולם אליבא דכולי עלמא -

However there is still a difficulty, for our משנה teaches that the snake is always a מועד according to everyone (even according to ר"א); there can be no domestication for a snake -

והתם⁴ מפרש ריש לקיש⁵ והוא שהמיתו אבל לא המיתו לא -

And there ר"ל explains the view of ר"א to mean that it is only if the wild animals killed (then one may/should kill them) **however if they did not kill**, then one should **not** kill them. For (as the גמרא states there) ר"ל -

קסבר יש להם תרבות ויש להם בעלים אפילו אנחש -

Maintains they all (including [even] the snake) can be domesticated and have owners. This seems to be a contradiction; our משנה states that a snake cannot be domesticated (indicating that he may be killed); however according to ר"ל, even a snake can be domesticated and therefore should not be killed.

תוספות answers:

ואומר רבינו תם דהתם בקשורים בשלשלאות כגון ארי בגוהרקי שלו -

And the ר"ת answers that there in סנהדרין we are discussing situations where the animals **are tied in chains for instance a lion in his cage -**

דבענין זה יש להם תרבות -

For in this manner they can be domesticated (when they are caged) -

[ואין להם להרגם אלא כהמיתו ותרבות דהכא היינו שגידלם בביתו] -

[and they should not be killed, unless they kill first.⁶ However the domestication referred to here means that he raised them in his house (but they are not in chains)]. Therefore the snake in our משנה is considered a מועד לעולם for he is not a בן תרבות.

נחש: תוספות offers an alternate resolution to the contradiction concerning the

ועוד יש לחלק דוקא לענין זה יש להם תרבות -

And furthermore we can differentiate that when ר"ל maintains that a snake can be domesticated; that is limited only to this ruling -

שאין להם להרגם כל הקודם אלא אם כן המיתו -

That they should not be killed unilaterally, only if they killed first -

אבל לענין אם הזיקו לשלם נזק שלם או לא -

⁴ סנהדרין טו,ב.

⁵ ר"א argues with ר"ל cited above as to the interpretation of s"א ruling.

⁶ See (also) תוספות in יוחנן ד"ה ור' יוחנן in תוספות that one is not permitted to kill a wild animal (even a snake) if the owner has it chained.

However concerning if they damaged whether they should pay a נ"ש or not -

בהא לא איירי מידי אם חשיב תרבות שלהם תרבות:

They were not discussing at all if this domestication is considered domestication. The snake is considered sufficiently domesticated that if he did not kill, one should not kill him. However he is not sufficiently domesticated that he should be exempt from paying a נ"ש when he bites (it is not sufficiently משונה, even if he is domesticated).

SUMMARY

There is a dispute (according to ר' יוחנן) between ר' אלעזר of our משנה who maintains that wild animals (with the exception of the snake) can be domesticated and ר' אליעזר in סנהדרין מס' who maintains that wild animals cannot be domesticated and may therefore be killed even before they killed others. [ר' אליעזר (בן הורקנוס), the רבי of ר"ע preceded ר' אלעזר who lived after ר"מ (a תלמיד of ר"ע).]

Concerning ר"ל who maintains that even a נחש can be domesticated (seemingly contradicting the משנה here), we can either say that ר"ל is referring to a situation where they are chained; or that ר"ל is merely restricting the right to kill them (if they did not kill), however they may still be obligated to pay as a מועד.

THINKING IT OVER

ר"י presents a contradiction between ר"א here and ר"א in סנהדרין according to ר"י who maintains that תרבות אין להם. Seemingly the contradiction is also according to ר"ל; for ר"ל admits that if they killed, one may kill them. The reason is that since they killed this indicates that they are not בני תרבות. Why then does ר"א maintain here that even if they damaged they are not מועדים if they are בני תרבות?! Once they damaged this indicates that they are not בני תרבות!⁷

⁷ See ר"נ.