

מוליד אש ביום טוב

(ביצה דף ל"ג.)

The משנה in ע"א ל"ג דף ביצה mentions that even though it is clearly permissible to light a fire from an existing flame for the purpose of אוכל נפש, it is prohibited to light a fire from scratch on יום טוב:

אין מוציאים את האור לא מן העצים ולא מן האבנים ולא מן העפר, ולא מן הרעפים ולא מן המים.

The גמרא on ע"ב ל"ג gives the reason:

מאי טעמא - משום דקא מוליד ביום טוב.

The גמרא attributes the prohibition to "מוליד", which is known as creating a new substance. However, it is unclear in the גמרא as to what the nature of the prohibition of מוליד is and also how it applies to the case of lighting a fire on יום טוב. In order to understand the prohibition of lighting a fire from scratch, we must first examine the prohibition of מוליד in general.

The גמרא in ע"ב נ"א דף שבת mentions that there is a prohibition on שבת to crush ice and turn it into water. However the גמרא does mention that it is permissible to place the ice in a cup and allow it to melt.

Regarding the prohibition of crushing ice, רש"י mentions that the reason for the prohibition is that it is "מוליד" and that by creating a new substance on שבת, it is similar to a מלאכה:

כדי שיזובו מימיו - משום דקא מוליד בשבת, ודמי למלאכה, שבורא המים האלו.

According to רש"י, it seems that the nature of the prohibition of מוליד is that even though it cannot be categorised under any of the 39 מלאכות, it is a form of מלאכה on a Rabbinical level, since one is creating a new substance on שבת or יום טוב.

The גמרא in כ"ג ע"א ביצה also mentions the prohibition of מוליד regarding creating a smell on יום טוב:

איבעיא להו: מהו לעשן? רב ירמיה בר אבא אמר רב: אסור, ושמואל אמר: מותר. רב הונא אמר אסור, מפני שמכבה. אמר ליה רב נחמן: ונימא מר מפני שמבעיר - !אמר ליה: תחלתו מכבה וסופו מבעיר. אמר רב יהודה: על גבי גחלת - אסור, על גבי חרס - מותר. ורבה אמר: על גבי חרס נמי אסור, משום דקא מוליד ריחא. רבה ורב יוסף דאמרי תרוייהו: סחופי כסא אשיראי ביומא טבא - אסור.

The *גמרא* discusses whether or not it is permissible to place burning incense underneath fruit in order to sweeten them. According to *רב יהודה*, one cannot place the incense on burning coals, since he extinguishes the fire in the process and he violates the *מלאכה* of *מכבה*. But one can place the incense on earthenware, since one does not extinguish the fire in the process. But according to *רבה*, one may not even place the incense on earthenware, since he creates a smell which enters into the earthenware. Likewise, it is also prohibited to place a cup of spices onto a garment in order that the smell enters the garment, since he creates a new smell within the garment.

Once again, *רש"י* mentions that the reason for the prohibition is that it is similar to a *מלאכה* on a Rabbinical level:

דקמוליד ריחא - שנכנס בחרס, שלא היה בו ריח, ואסור מדרבנן, שהמוליד דבר חדש קרוב הוא לעושה מלאכה חדשה.

רש"י is consistent with his view on the prohibition of *מוליד* that it is similar to a *מלאכה* on a Rabbinical level.

The *דף נ"א שבת* in *גמרא* and other *ספרד חכמי* on the *דף נ"א שבת* and other *ספרד חכמי* quote the *ספר התרומה* who offers an alternate understanding of the prohibition of *מוליד*:

ובעל ספר התרומה כתב שאסורין משום נולד, ואסור ליתן קדירה שקרש שמנוניתה כנגד המדורה משום דמעיקרא עב וקפוי ועכשיו נמחה ונעשה צלול והו"ל נולד (חידושי הרמב"ן מסכת שבת דף נא עמוד ב)

The ספר התרומה understands that the prohibition of מוליד is a form of נולד. Anything that is came into existence on שבת or יום טוב that was not in existence before is נולד and is considered a form of מוקצה and it is prohibited to move or make use of it on שבת or יום טוב (see ביצה גמרא or דף ב' ביצה גמרא). The ספר התרומה understands that just as making use of such an object involves a prohibition of נולד, so does creating such an object in the first place. According to the ספר התרומה, it would be prohibited not only to crush ice but also to place it in an empty cup or to place fat near a heat source that would cause it to melt since one is still causing a new substance to be formed. Even though the גמרא in שבת says that it is permissible to place the ice in a cup, he would have to understand it to be a case where one places ice in a cup full of liquid so that it is not recognizable when it melts.

A third understanding of the prohibition of מוליד can be found in the רמב"ם. The הלכות שבת in רמב"ם mentions the prohibition of crushing ice in the same context as squeezing the liquid out of pickled vegetables on שבת.¹ Therefore, the רמב"ם understands that there is no

¹ פרק כ"א הלכה י"ג

additional prohibition called "מוליד" but rather crushing ice is merely a form of סחיטה on a Rabbinic level.

Likewise, when the רמב"ם in טוב יום הלכות discusses the prohibition of placing smoking incense near a garment, he only mentions that it involves a prohibition of extinguishing the fire – מכבה of מלאכה.² He does not mention a prohibition of creating a smell. Therefore, it would seem that according to the רמב"ם, the prohibition of מוליד is a misnomer and that whenever the גמרא mentions מוליד, it is really referring to a prohibition that can be categorized under one of the מלאכות.

The prohibition of lighting a fire from scratch, which the גמרא attributed to being מוליד, could also be understood in different ways.

The משנה on the ברטנורא and שיטה לא נודע למי³ mention that the reason for the prohibition of lighting a fire from scratch is that it is a form of מלאכה on a Rabbinical level to create something from scratch:

משום דמוליד ודמי למלאכה, שבורא האש הזה ביו"ט (ר' עובדיה מברטנורא מסכת ביצה פרק ד)

² פרק ד' הלכה ו'

³ ביצה דף ל"ג ע"ב

This is consistent with רש"י's understanding of the prohibition of מוליד.

The גמרא on the הגהות הראב"ד understands the רמב"ם to be saying that starting a fire from scratch is prohibited since there is a lack of הכנה before יום טוב. This is similar to the ספר התרומה's understanding of מוליד in that it is based on the prohibition of נולד and מוקצה and that just as if it prohibited to use such an object, it is also prohibited to create it.

When the רמב"ם discusses the prohibition of lighting a fire from scratch on יום טוב, he seems to introduce a different reason than that mentioned in the גמרא:

שלא הותר ביום טוב אלא להבעיר מאש מצויה, אבל להמציא
אש אסור שהרי אפשר להמציא אותה מבערב (רמב"ם הלכות
יום טוב פרק ד: א)

The רמב"ם says that only lighting a fire from an existing flame is permitted but lighting a flame from scratch is prohibited since it could have been done before יום טוב. The ראב"ד that we mentioned earlier attacks that רמב"ם and asks why he did not mention the reason brought in the גמרא about the prohibition being based on מוליד, which he understands to be נולד.

The מפרשים on the רמב"ם and other פוסקים offer different explanations. The ערוך השולחן⁴ suggests that the רמב"ם agrees that the prohibition is based on נולד. However, the רמב"ם was addressing a different question as to why it is still not permitted for the purpose of אוכל נפש and his answer is that it could have been done before יום טוב.

The מגיד משנה says that the רמב"ם holds that נולד does not apply to fire, since fire is a means to an end, such as cooking something else but it has no inherent use in itself. Therefore, the רמב"ם introduces a different reason as to why starting a fire is prohibited. The ערוך השולחן⁵ offers a different explanation, where he says that maybe נולד does not apply to fire, since fire is intangible and unlike a regular object. The מגיד משנה also adds that since נולד does not apply to fire, if one did start a fire on יום טוב, it would still be permissible to use it or gain benefit from it.

However, as we mentioned earlier in the case of crushing ice and producing a smell, the רמב"ם seems to hold that there is no such prohibition as מוליד at all. Therefore, one would not need the explanation of the מגיד משנה as to why

⁴ או"ח סי' תק"ב סעיף ג'

⁵ שם סעיף ד'

נילד would not apply to fire. According to this approach and along with the מגיד משנה, the רמב"ם must understand that the prohibition of starting a fire is a form of הבערה that is prohibited because it could have been done before יום טוב.

The סמ"ק (סימן קצ"ד) and סמ"ג (לאוין ע-ע"ה) have clearer formulations that imply that lighting a fire from scratch is a prohibited form of הבערה:

אין מוציאין האש לא מן העצים ולא מן האבנים ולא מן המתכות, שלא הותר ביום טוב להבעיר אלא מאש מצוייה (ספר מצוות גדול לאוין סימן עה)

The גמרא in מכשירי אוכל נפש that tells us that ביצה דף כ"ח ע"ב in גמרא that could have been done before יום טוב are prohibited on יום טוב. As the רמב"ם writes in הלכות יום טוב it would seem that this is the reason that the רמב"ם gives for prohibiting lighting a fire from scratch. What would the רמב"ם say about a case where someone was not able to light a fire from scratch before יום טוב (such as if one was imprisoned or in a desert before יום טוב)? On the surface, it would seem that the רמב"ם holds that lighting a fire from scratch is categorically prohibited, since the גמרא never made such distinctions. However, the ספר הבתים says that according to the רמב"ם, if one was not able to light a fire from scratch before יום טוב that one would be allowed to do so on יום טוב.

What would the רמב"ם say if one were to light a fire from scratch for the purpose of אוכל נפש itself (i.e. to warm oneself by the fire)?

This is a debate between רש"י and 'תוס' as to whether מלאכה for אוכל נפש itself that could be done before יום טוב is also prohibited. רש"י on ע"ב כ"ג דף says that any מלאכה that could have been performed before יום טוב is not included in the heter of אוכל נפש. However, 'תוס' on the other hand, says that the גמרא only makes such a distinction within אוכל נפש מכשירי. But regarding מלאכה of אוכל נפש itself, it is permissible even if it could have been done before יום טוב. The רמב"ם in הלכות says that יום טוב⁶ on a דאורייתא level, any מלאכה for the purpose of אוכל נפש is permissible. However, the Rabbis made a decree to not allow any מלאכה that could have been performed before יום טוב. In הלכה ז', the examples that the רמב"ם brings are all of the מלאכות that are not permitted for אוכל נפש, such as קצירה, דש, etc.

The רמב"ם could be understood in two different ways. One way to understand him is that all of the מלאכות that in general could have been performed prior to יום טוב are Rabbinically prohibited even for the purpose of אוכל נפש.

⁶ פרק א' הלכה ה'

However, all of the מלאכות of אוכל נפש that in general could not have been performed prior to יום טוב are categorically permissible, even if in a particular instance one could have performed it prior to יום טוב. This is the way that the רמב"ם seems to understand the מגיד משנה.

According to this approach, if one follows the רמב"ם's reason about the prohibition of lighting a fire from scratch on יום טוב, it would seem that if one to do so for the purpose of אוכל נפש, it would be permissible. The עבודת הקודש in רשב"א implies this way.⁷

The ט"ז⁸ has a problem with this approach, since the משנה and גמרא do not make distinctions and assume that it is prohibited to light a fire from scratch in all cases. Therefore, he suggests that it must be that the תורה only allows אוכל נפש regarding something that already exists. However, the תורה never allows someone to create a new object for the purpose of אוכל נפש. According to the ט"ז, lighting a fire from scratch is not only prohibited even in the case of אוכל נפש but even on a דאורייתא level. The ט"ז also disagrees with the מגיד משנה, who allowed one to use a fire that someone had lit on יום טוב. The ט"ז says that since the prohibition is on a דאורייתא level, it would be prohibited to make use of the fire. This is a tremendous

⁷ בית המועד (ב'; ס"ז)

⁸ או"ח סי' תק"ב ס"ק א'

חידוש. Most ראשונים and פוסקים understand that starting a fire from scratch is only a Rabbinical prohibition.

Another way to understand the רמב"ם about אוכל נפש is that he holds that even those מלאכות that generally could not be performed prior to יום טוב would still be Rabbinically prohibited in a situation where they could have been performed prior to יום טוב. The פרי חדש⁹ understands the רמב"ם this way. According to this approach, even though the הבערה of מלאכה is generally a מלאכה that could not have been performed prior to יום טוב, since lighting a fire from scratch could have been performed before יום טוב, it would be Rabbinically prohibited, even if performed for the purpose of אוכל נפש.

⁹ או"ח סי' תצ"ה ס"ק א'