



Parshas Vayetze 5763

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Is there an issue of Tzeida (trapping) with regard to fish?

As mentioned in the previous sheet, trapping an animal on Shabbos is prohibited. It was also mentioned that hunted species are biblically prohibited to trap and non-hunted species are rabbinically prohibited. Fish fall into the first category and are biblically prohibited to trap, this is because they are hunted for food or as 'pets' for household fish tanks.

Does this apply to fish in a fish tank as well?

Notwithstanding the *muktze* issue, it depends on the size of the tank. A fish in the sea or a lake is subject to the fundamental prohibition because in its present state it is totally free. A fish in a small fish tank would not be subject at all to the prohibition of trapping being that it is already trapped. This of course is relative to the size of the fish and the size of the tank.

A small fish in a large tank might be categorized as totally free or semi free it depending on the tank size. If it is semi free it would involve an *issur d'rabanan*.

If a big fish is about to devour the smaller fish, is one permitted to remove the small fish from the tank?

The answer to this question is comprised of two separate issues. The first being *Tzeida* – trapping. If it is difficult to fish out the fish it is a sign that they are not totally in one's

control and the prohibition of trapping is applicable. If easy to fish then it is probably called trapped and this *issur* would not apply. The second issue is *muktze*. All animals are considered *muktze* and therefore removing the fish would not be possible because of *muktze*. One could argue that maybe when *Tsa'ar Ba'alei Chayim* is involved it should be permitted. The answer is that true, *muktze* might be waived when *Tsa'ar Ba'alei Chayim* is involved as we will soon see, however HaRav Shlomo Zalman Auerbach זצ"ל¹ learns that natural phenomena are not classified as *Tsa'ar Ba'alei Chayim*.

Accordingly there is no *Mitzvah* of *Tsa'ar Ba'alei Chayim* to save a mouse from a cat. Therefore one would not be permitted to incorporate the *mitzvah* of *Tsa'ar Ba'alei Chayim* to save the small fish.

A Rav should be consulted whether it is permitted to ask a non-Jew to transfer the fish.

If a fish dived out of the tank, is one permitted to return it on account of Tsa'ar Ba'alei Chayim?

In other words, is one permitted to handle *muktze* for the sake of *Tsa'ar Ba'alei Chayim*? The answer is that we find conflicting opinions in the matter.

The *Magen Avraham*² learns (based on the *Rambam*) that *muktze* is not waived in place

¹ SS"K 27:58 footnote 179.

² *Simon* 305:11.

of *Tsa'ar Ba'alei Chayim* and in this case it would be forbidden to lift the fish back into the water. The *Elya Raba*³ disagrees with the *M" A* and based on other Rishonim learns that one may handle *muktze* when *Tsa'ar Ba'alei Chayim* is involved. He explains the *Rambam* saying that the *Rambam* only prohibited handling *muktze* when other options are available.

The *Chazon Ish*⁴ also permits handling *muktze* to prevent *Tsa'ar Ba'alei Chayim* but the *Shulchan Aruch HaRav*⁵ only permitted it when a great loss might incur.

The *Mishna Berura*⁶ brought down both opinions and concluded that one may definitely make use of a non-Jew in such a case.

Therefore, if your fish dives out of the tank make sure that you have a non-Jew on hand.

If a bee (the honey maker) is disturbing me in my succah am I permitted to trap it?

The *Shulchan Aruch*⁷ teaches us that one is permitted to kill non-poisonous snakes and scorpions in order to save oneself from their painful bite and sting. However, says the *Mishna Berura*,⁸ this is only true of species whose nature it is to cause harm and whose bite is painful, but insects – whose bites are not so painful – may not be killed (or trapped) and one should chase them away. Although a bee sting is more painful than a flea or mosquito bite, yet it does not automatically sting people. On the other hand there are people who are allergic to bee

stings and being stung by a bee poses a life-threatening situation.

Therefore, in normal circumstances one should remain calm and not start up with the bee and avoid trapping it. Rav Eliyahu Falk *shlita* presents a solution by the way of putting some honey in a teaspoon and alluring the bee out of the succah.

Vort on the Parsha

Vayeitzeh Ya'akov from Be'er Sheva, *Rashi* explains that with *Ya'akov* departure all the beauty and glamour of the city disappeared as well. Rav Sternbuch *shlita* beautifully points out that even though *Ya'akov Avinu* did not walk the streets giving lectures nor was he a person who intermingled with the public at large, rather he was a born and bread yeshiva bochur, as it says *Yoshev Ohalim* – he would dwell in the tents of Torah.

Food For Thought

If one sees a rattlesnake on Shabbos what should he do?

What about a snake or scorpion whose bite cause pain and distress but is not deadly, is one permitted to trap or kill them?

If one's dog rebelled and will not return home, is one permitted to trap it on Shabbos and bring it home?

Answers coming next week.

³ *Simon* 305:18.

⁴ *Simon* 52:16.

⁵ *Simon* 305:26.

⁶ *Simon* 305:70.

⁷ *Simon* 316:10.

⁸ *Simon* 316:46.

Dedicated in memory of Rav Isser Zalman Meltzer, 10th of Kislev.

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Note: The purpose of this series is intended solely for the clarification of the topics discussed and not to render halachic decisions. It is intended to heighten everyone's awareness of important practical questions which do arise on this topic. One must consult with a proper halachic authority in order to receive p'sak.