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**TALMUDIC METHODOLOGY**

**By Rav Moshe Taragin**

**Shiur #04: Do Fish Require a *Matir*?**

The *gemara* in *Chullin* contrasts different types of edible livestock, each of which requires a form of *shechita*, as opposed to fish, which do not require classic *shechita*. The *gemara*'s initial language implies that while fish do not require *shechita*, they do require a parallel action to *shechita* to render them *mutar* to eat. As the *gemara* articulates, "*Ba-asifa be-almah sagi*" – collecting fish from water even without performing an act of *shechita* is sufficient. Subsequently, the *gemara* articulates the lack of a need for *shechita* for fish in a different fashion: “Fish…are permissible to eat **without any action**.” This implies that NO formal action is necessary to render a *heter* to eat them.

The question as to whether fish require a *shechita*-like action to create a *heter* or are permissible even without a *shechita*-like action may affect several interesting questions.

It appears that the Rambam rules that fish-like livestock require “collection,” which parallels the act of *shechita* as a “*matir*.” In *Hilkhot Shechita* (1:3), he writes: "*Asifatam hi ha-materet otan.*” This reinforces the notion that the act of COLLECTING the fish from water functions in the capacity of *shechita* in permitting the fish to be eaten. By contrast, the language of the Rashba in his *Torat Ha-Bayit* suggests that a fish does not require any act of *matir*, but is rather naturally permitted to be eaten. The simple reading of the Tosefta in *Terumot* certainly supports the Rashba's position: “All fish may be eaten as they are, whether alive or dead.”

An interesting consequence of this question regards the case of fish that were not collected from water while alive but died naturally. The Rambam clearly permits these fish; even though he requires an act of collecting, he does not distinguish between collecting live fish and dead fish. As long as the fish were drawn from water, they can be eaten. By contrast, R. Sa'adia Gaon (at least his position as it appears in the *Kessef* *Mishna*) prohibits fish that died in water. Obviously, R. Sa'adia Gaon believed that an act of drawing is necessary AND that this act must resemble *shechita* in terminating life. Thus, if the fish died prior to that act, it is forbidden. The Rambam appears to agree that an act of collecting is necessary, but this act can be performed upon a dead fish as well.

Two interesting *gemarot* may support the idea that the collecting is actually the *matir* of fish in the same manner that *shechita* acts as the *matir* of meat. The *gemara* in *Chullin* (75a) discusses the precise moment at which fish meat begins to receive *tuma* if touched by a *tamei* item. Usually, live items cannot contract *tuma*, and we would therefore expect fish meat to receive *tuma* only **after** the fish dies. Beit Shammai rules, however, that fish meat is capable of contracting *tuma* from the time that the fish is captured. Presumably, Beit Shammai views the act of collecting or catching a fish as creating a *heter* to eat the fish, and consequently as imposing the status of “*ochel*”(food) upon the fish. Once it receives the status of *ochel*, the fish meat can contract *tuma*. (See the *sefer* *Shiurei HaRav* on *Massekhet Chullin*, p. 100, n. 169, where R. Menachem Genack is recorded as making this point in the name of R. Soloveitchik.)

A second *gemara* that may indicate that collecting the fish is considered a *matir* is found in *Chullin* 76, which records a debate regarding the *simanei* *kashrut*, the body-signs that determine whether a fish is kosher. The *gemara* questions whether a fish that loses its signs when drawn from the water is kosher. Ultimately, the *gemara* rules that it is, but the very question suggests that the actof drawing a fish from water confers the *heter* upon the fish. Conceivably, if the fish were to lose its *simanei* *kashrut* at this stage, the process would fail. While the gemara rejects this idea and permits fish that lose their signs when drawn from the water, the question itself may reflect the position of the Rambam that the act of collecting is considered a *matir*.

A third *gemara* reflects the Rashba's position that a fish does not requirea *matir*. The *gemara* in *Chullin* (77b) prohibits worms that are found between the skin and flesh of a recently *shechted* animal. However, the *gemara* permits the consumption of worms found between the skin and flesh of a fish. Distinguishing between the two, the *gemara* asserts that the worms in an animal are not affected by the *shechita* on the host animal. Absent of the act of *shechita* as a *heter*, these worms remain forbidden to eat. By contrast, worms in a fish, like the fishitself, DO NOT REQUIRE an act of *matir* and therefore are permitted to eat. This *gemara* certainly implies that a fish (and its resident worms) do not require an act of *matir* in the manner that livestock meats require an act of *matir*.