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Kosher Fish

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The *Torah* permits the consumption of fish only if they have fins and scales.¹ A type of fish that has been established as possessing fins and scales but only acquires them at an older age is considered as having fins and scales, and may be consumed even prior to that time.²

Chazal state that any fish that has scales also has fins. Therefore, one who wishes to consume an unknown type of fish that was cut up and only discovers scales may eat that fish and assume that the fish possessed fins.³

Kosher Scales

There are four types of scales found on fish and they are: clenoid, cycloid, ganoid and placoid. Only clenoid and cycloid scales are valid according to the *Torah*. *Chazal* state that the scales must be true scales that can be removed without damaging the skin of the fish, (similar to when one removes a fingernail). Ganoid are scales that are found on sturgeon and are bony plates that cannot be removed without damaging the skin. Similarly, placoid scales which are found on sharks, appear like thorny teeth and cannot be removed without damaging the skin, and are therefore not suitable to render the fish kosher.⁴

Fish do not need to be fully covered with scales for them to be considered kosher. Even one scale is sufficient to render a fish kosher. However, the *Rema* is stringent and maintains that one must suspect that perhaps the scale is actually from another fish and it attached itself to this fish, and this fish does not really possess any scales and is not kosher. The *Rema* maintains that if the scale is

found under the fish's jaw, fin, or tail, one may assume that it is the scale of that fish, and that the fish is therefore kosher.⁵ Skipjack tuna do not possess any scales under their jaws, fins, or tails, but have scales that surround their center like a belt. The *poskim* consider them to be kosher, since the *Rema*'s requirement applies only to fish that have only one scale. Skipjack tuna, however, have numerous scales on their bodies.⁶

Fish That Have Red Flesh

Only the eggs of kosher fish (e.g. fish roe and caviar) are permitted. When discussing fish roe and caviar, the *Shulchan Aruch* states that any fish eggs that have a reddish appearance may be assumed to have come from a kosher fish, as it has been established that no non-kosher fish produce such eggs.⁷

Similarly, Rav Moshe Feinstein maintains that if after investigation one can be reasonably certain that no non-kosher fish possess a certain flesh color, it can be accepted as a genuine *siman*, authenticating the fish as kosher. After intensive investigation, it has been established that there are no non-kosher fish available for commercial consumption that have a reddish-pinkish flesh. There are some small tropical fish that have red flesh, but they are not available for commercial consumption. Salmon, trout, and some carp, are the only types of fish that have a reddish-pinkish flesh and are available for consumption, and they are all kosher fish. Many leading kashrus organizations rely on this, and accept all reddish-pinkish fillets without identifying them by their fins and scales.⁸

This discussion, however, only applies

to fish whose flesh is naturally red, such as wild salmon and trout. Farmed varieties of salmon and trout, on the other hand, have a sickly pale-white appearance. The reason for this is due to the fact that wild varieties of such fish absorb an anti-oxidant called astaxanthin, which contains a nutrient that causes their flesh to have a red color. This antioxidant comes from their consumption of other fish (e.g. lobster and shrimp). The diet of farmed salmon does not provide absorption of any such anti-oxidant. Recently, it has been discovered that the farmed varieties of such fish are being fed an artificial astaxanthin to alter the color of their flesh. This discovery raised much concern in the field of kashrus, since, just as the flesh of kosher fish such as farmed varieties of salmon and trout, can be colored red through the use of astaxanthin, couldn't the same be done to the flesh of non-kosher fish? If that were indeed the case, the fact that a fish has a reddish-pinkish flesh could no longer be relied upon as proof that the fish is kosher.

However, after sufficient investigation into the performance of antioxidants, studies showed that red flesh is still considered a *siman* of a kosher fish. Astaxanthin is an antioxidant which is in the same family as the antioxidants (such as beta-carotene) that are found in carrots, squash, apricots, and sweet potatoes. In addition to providing the color to these foods, the health benefits of these anti-oxidants are numerous. Excess antioxidants, which are not needed for everyday life functions, are stored in different parts of the body in different creatures. In salmon and trout, the antioxidants are stored in the muscle tissue (i.e. the flesh) making the flesh pink or red. (The antioxidants do not change the color of the skin of the fish, which retains its natural color.) Only fish that store their antioxidants in their flesh can

Please Note: Due to the intricacy of the material discussed in each issue, and the brevity of its treatment, a *Rov* should be consulted for a final *psak halacha*. In addition, this publication does not intend to be מכריע on issues that are a *machlokes haposkim*. Although we have usually brought the dissenting views in the footnotes, we have selected for simplicity sake to incorporate into the main text the views of the *Mishnah Berurah*, R' Moshe Feinstein, R' Shlomo Zalmen Auerbach and several other preeminent *poskim*. Please send all questions and comments to 1341 E. 23rd Street, Brooklyn, NY 11210 or email to halachaberurah@thekosher.net

have a reddish-pinkish flesh, and will likewise respond to artificial antioxidants which will alter their flesh color. Other fish which cannot store antioxidants (whether natural or artificial) in their flesh, cannot have red flesh even when fed artificial anti-oxidants.

It is interesting to point out that in humans, antioxidants are stored in the skin, amongst other places. This explains why eating an excessive amount of yellow-orange fruits, can cause a person to develop a jaundiced look.⁹

In conclusion, any fish with a reddish-pinkish flesh can be assumed to be kosher. It is important to note that this heter is applicable only if a yid noticed this colored flesh in its natural state. Once the flesh is cooked or processed with other ingredients where its natural color can no longer be recognized, this *siman* is obviously not applicable.

Some are stringent nevertheless, and do not rely on the natural red flesh color out of fear that the facts might change. Currently, this is the situation, and it is relied upon by leading kashrus organizations.¹⁰

Filleted Fish

The *Chinuch* maintains that prior to consuming a fish, there is a *mitzvah* to ascertain that the fish has both kosher signs, i.e. fins and scales. If only one sign was identified and the fish was eaten, the *Chinuch* maintains that this *mitzvah* was violated, even if the fish possessed the second sign and was actually kosher.¹¹ Based upon the *Chinuch*, some *poskim* claim that unless there is a *Yid* who checked the fish and testifies that it possesses both signs, one who consumes the fish is in violation of this *mitzvah* even if he can identify the species of the fish.¹²

Many *poskim* disagree with the above assertion, and maintain that the entire *mitzvah* to identify the kosher signs only applies to an unknown species. Once it has been established that a species possesses the necessary kosher signs, it is sufficient for one to merely identify the fish as being of that species, and there is no need to check for the actual *simanim*.¹³

Consequently, one is forbidden to eat any fish unless he can confirm that it is kosher, either by identifying the kosher signs, or by clearly recognizing the species and knowing that such a species is kosher.¹⁴

Many fish look very similar, and even skilled experts cannot necessarily differentiate between one type and another once they are filleted. It is for this reason that *Chazal* state that filleted fish may not be eaten if it was left in the presence of *goyim*, unless it bears two tamper-proof seals. Therefore, one is forbidden to consume filleted fish purchased from a *goy*. Likewise, filleted fish that was delivered by a *goy* is forbidden if the fish does not bear two tamper-proof seals. If fish was sent with a *goy*, the only way it is per-

mitted is if the sender recognizes the manner that it was packed and verifies that it was not tampered with or switched.¹⁵

Purchasing Fillet Fish from a Jewish Fish Store

It is extremely important to notify the public that filleted fish should not be purchased from any store unless it is under a reliable *hashgacha*, or one knows the owner to be a true *yorei shomayim*, and the owner confirms that the fish was not purchased from a *goy* already filleted.¹⁶

Many fish stores purchase ready-made filleted fish from the central fish market. By doing so, they avoid the tremendous hassle and the time needed to fillet a fish properly. Unfortunately, numerous fish stores owned by *frum Yiddin* have been caught buying ready-made filleted fish from the central fish market. In explanation, they claim that they have the ability to recognize the type of fish that they purchase. However, it has been proven otherwise, and unfortunately, some non-kosher fish have been purchased and sold.¹⁷ In addition to the fact that non-kosher fish has been sold, it also created a problem with the knives and cutting boards that were used with the non-kosher fish.¹⁸ It is easy to understand why one should be wary when purchasing filleted fish, and that a reliable *hashgacha* is vital.¹⁹

Purchasing Kosher Fish from a Goyishe Fish Store

We mentioned above that according to most *poskim* it is not required to have a *Yid* check for the kosher signs, and that if one recognizes the fish as being from a kosher species, it is sufficient. Nonetheless, filleted fish may still not be purchased from a *goy*, since once the fish is filleted, one might not be able to verify whether or not it is a kosher species.²⁰

Rav Moshe Feinstein rules that even though the *goy* is in business (and there is the fear of being shut down or penalized for misrepresentation), he cannot be trusted to say what type of fish he is selling. Similarly, a *hashgacha* which only requires the *mashgiach* to make sporadic inspections would not suffice for a *goyishe* fish store which sells kosher and non-kosher fish. Such a *hashgacha* only helps eliminate the possibility of fraudulent conduct. A *goy* would be nervous to tamper with the ingredients of an item out of fear of getting caught. However, with regard to the selection of fish, there is really no way to instill fear since the *goy* can claim afterwards that he accidentally overlooked the non-kosher fish amongst all the other fish, and thus failed to remove it.²¹

When purchasing fish from a *goyishe* store, one must see the complete fish that is being bought, and the kosher signs should be identified. If the buyer would like the *goy* to

fillet the fish, he must do so in front of the *Yid* using a clean knife and cutting board. If an unclean knife was used, the fish may only be eaten after it is thoroughly washed and scrubbed, and if possible, the areas on the fish that came in contact with the knife should be scraped off.²²

If it is advertised that only kosher fish are sold in the store, and *Yiddin* frequent the store, some *poskim* permit the *goy* to use his regular knife when filleting the fish. Since the *goy* can be caught easily if he brings non-kosher fish into the store, one need not suspect that he'll do so. Moreover, even if the *goy* used the knife to cut non-kosher fish for himself, any residue that might have remained on the knife would have been wiped off from all the other kosher fish that he cut afterwards. Still, it is preferable to wash off the fish thoroughly before eating it.²³

Commercially Produced Canned Fish

There has been much discussion amongst the *poskim* regarding the permissibility of purchasing commercially produced canned fish where a *mashgiach temidi* is not present.²⁴ While fishing for kosher fish, it is quite common for similar looking non-kosher fish to get mixed into the batch. Baby swordfish, for example, look very similar to sardines. The possibility of other fish getting mixed in is a concern regarding tuna and other fish as well.²⁵

Obviously, some supervision is required to ensure that the facility or plant, including all the equipment and cookers, is thoroughly cleaned. Then, when necessary, the equipment, cookers, knives, carts, tables, and baskets must be *kashered*.²⁶

The question at hand is whether it is required for a *Yid* to constantly be present in the plant to personally examine each fish and check for fins and scales, or at least to verify that the species of fish is kosher.

The *Rivash* writes that although it is generally permitted to rely on *rov* - the majority, to permit consumption of an unknown item, this concept does not apply to determining kosher species. There is a *mitzvah* in the *Torah* to separate kosher and non-kosher species prior to consuming any animal, bird, fish, or grasshopper. Therefore, the *Rivash* maintains that even in situations where one can establish that the majority of species are kosher, still, in light of this *mitzvah*, one may not rely on the majority to permit consumption of an unknown species without identifying the kosher signs.

For example, the *Rivash* quotes *Chazal* who state that since the *Torah* lists twenty-four species of non-kosher birds, one can infer that most species of birds are kosher (i.e. we can assume that the non-kosher birds listed in the *Torah* are the minority). Even so, one cannot permit the consumption of an

unknown species by relying on the majority of birds.²⁷

Some suggest that based on this *Rivash*, even if the majority of fish caught in a certain area are from a known kosher species, it is still required *Mideoraisah* to have every single fish checked to make certain that it is kosher.²⁸ However, many *poskim* maintain that the opinion of the *Rivash* is irrelevant in such a situation. The *Torah* only required that kosher and non-kosher species be separated, and therefore, *rov* cannot be relied upon to permit an unknown species and establish it as being kosher. However, if the majority of fish are from a known kosher species, one may assume *Mideoraisah* that an unidentified fish in the batch is from that kosher species. The *rov* is not establishing an unknown species as being kosher, but rather allows us to assume that an unidentified fish is actually from a particular known kosher species. It is for this reason that if all the fish were thoroughly checked, they may be consumed even though there is a possibility that some fish may have been overlooked in the process. The *rov* is relied upon, which allows one to assume that the fish is from a known kosher species.²⁹

The above discussion only addressed the permissibility of consuming such fish on a *Torah* level. In certain instances, the *Rabonon* forbade the consumption of fish even if the majority is kosher.

The *Gemara* discusses certain fish called *chailak*, which were small fish that did not develop their kosher signs until later on in life. These fish were generally sold in bulk and it was common for similar non-kosher fish to get mixed into the batch. Only a skilled fisherman had the ability to successfully identify each fish and correctly separate all similar looking non-kosher fish, whereas average people would occasionally confuse the kosher and non-kosher fish. *Chazal* therefore forbade consuming such fish unless a skilled fisherman who could be trusted, claimed to have sorted the fish properly.³⁰ *Mideoraisah*, the batch of fish should have been permissible once it was checked. *Chazal*, however, were stringent and prohibited such fish out of suspicion that perhaps there is even the most minute possibility that a non-kosher fish was not identified.³¹

If the fish were examined by a skilled fisherman who is an expert in identifying such fish, one may assume that no non-kosher fish were overlooked. *Rashi* writes that a skilled fisherman, even if he is a *goy*, may be trusted to examine the fish, since if other fish would get mixed into the batch of *chailak*, it would ruin the taste of the fish and would obviously affect the *goy* adversely.³²

The ban of *chailak* is not applicable to all commercially produced fish, since *Chazal* only issued this enactment with regard to small kosher fish that are lacking kosher signs.³³ Both tuna and sardines possess ko-

sher signs, and if properly checked, even an unskilled fisherman can properly sort the fish. This is especially true if skilled fishermen check each fish.³⁴

The only question that must be resolved is whether one may trust *goyishe* companies that claim to have identified each fish to be from the species they are marketing. We mentioned earlier that one may not purchase filleted fish from a *goy*. On the other hand, we mentioned that *Chazal* permit purchasing *chailak* from a skilled fisherman who is a *goy*, since it is in his best interest to remove any other fish from the batch.

In commercial tuna fish production, the companies claim that they are very meticulous in removing any foreign fish from their production line. For example, there are several types of tuna available: albacore skipjack, yellow fin, and tongol. These fish are divided up by type, and are produced separately from each other. The canneries are set up to process only these types of fish. Moreover, for quality control purposes, the companies claim to be very careful to separate each of the different kinds of tuna, and market them separately. The fishermen examine and sort the fish when the catch is made. They inspect the fish once again on shore. The fish are checked a third time prior to being processed in the cannery. The companies are very interested in portraying a top-quality image in the eyes of the customers, and go to great lengths to ensure a top-quality production. *Mashgichim* who have visited the canneries several times and have seen first hand the meticulous sorting processes that the companies employ, have established that the companies' claim is indeed true.

Rav Yosef Eliyahu Henkin strongly opposed consuming any fish unless a *mashgiach* was present in the fish plant, and examined each fish. Rav Henkin maintained that one may not rely on a *goyishe* company's claim that they checked each individual fish.³⁵ As explained earlier, even sporadic unannounced visits by a *mashgiach* would not create a fear that would guarantee proper sorting, since foreign fish can easily be overlooked if the examiner himself does not take a serious interest in the task. Sporadic unannounced visits can only help prevent illegal insertions. In our situation, there is no suspicion of illegal insertions but of inattentive removal.³⁶ There have been other *gedolim*, including Rav Aharon Kotler, who relied on the tuna company's claim of maintaining a meticulous sorting procedure.³⁷

Some leading *kashrus* organizations are lenient in this regard, while others require the presence of a *mashgiach temidi* who personally examines each fish.

Please note that although a meticulous sorting process is used in tuna production, this is not necessarily the case for other varieties of canned fish. In sardine production,

such meticulous sorting is not guaranteed. Baby swordfish look very similar to sardines and they both swim in the same waters. When sardines are caught, many swordfish get mixed into the nets. Although a sorting process exists, baby swordfish can be overlooked. The companies do not exert a great deal of effort to see to it that every single swordfish is removed, as doing so is quite arduous. Some *poskim* suggest that in light of this, although there may still exist some grounds to permit the fish, nonetheless, one should preferably refrain from purchasing skinless and boneless sardines. Instead, one should eat non-filleted canned fish which has tiny holes in the skin of the fish indicating the location where the scales were once attached.³⁸

Grasshoppers

The *Torah* permits the consumption of certain grasshoppers but forbids others. The *Torah* describes kosher grasshoppers as having "jumping legs above its legs, with which to spring upon the earth." *Chazal* explain that they have four legs that are used for simple walking, while the other two are used for jumping. The grasshopper has two-jointed legs, whose joints are higher than its body when it is at rest. It uses these powerful legs to launch itself from the ground when it flies or jumps.³⁹

Chazal go on to say that in order to identify a kosher grasshopper, one must verify that it possesses the following four signs: 1. It has four legs, 2. It has four wings. 3. It has joints (i.e. the jumping legs just mentioned), and 4. Its wings cover most of its body.⁴⁰ Additionally, even if a grasshopper possesses all of these kosher signs, it is not permitted unless it belongs to the species called *chagavim*.⁴¹ *Rashi* writes concerning this last point that because it is impossible to determine which grasshoppers are kosher solely through their physical characteristics, only a firm tradition suffices to permit their consumption. With the passage of time, such traditions have become nearly extinct.⁴²

There are some Moroccan and Yemenite *Yiddin* who claim to have a tradition concerning certain grasshoppers. However, the *Ohr Hachaim* writes that when he was in Morocco, he protested against the consumption of any insects, including grasshoppers, because of the great difficulty in identifying the few kosher species from the cosmic number of non-kosher species. There are others who have justified their *minhag* to consume grasshoppers.⁴³

We mentioned in the last issue regarding birds, that in certain situations, one community may rely on the tradition of another community to permit the consumption of an unknown bird. Many *poskim* maintain that regarding grasshoppers this does not apply, since it is quite possible that there are flaws in the tradition.⁴⁴

