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**Parashat Emor**

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## CHARITY FOR HASHEM

by Rabbi Ezra Weiner

Rashi notes a difficulty in the Parashat Mo'adim, the section in Parashat Emor that deals with the holidays. In between the discussion of the laws of the Korbanot of Shavuot and Rosh HaShanah, there is a Pasuk that reviews the laws of gifts to the poor, the Matnot Aniyim. These gifts include Leket, Shichecha, and Peiah, which everyone is obligated to give from his field. However, we are already familiar with Matnot Aniyim from last week's Parasha, Kedoshim, where the Torah commands us, "UveKutzrechem Et Ketzir Artzechem Lo Techaleh Pe'at Sadecha LiKtzor VeLeket Ketzirecha Lo Telakeit," "And when you reap the harvest of your land, you shall not reap the corner of your field or gather the gleaning of your harvest" (VaYikra 19:9). What message is the Torah teaching by restating this Pasuk while dealing with the Korbanot of the holidays?

The Midrash Torat Kohanim (op. cit.) presents an answer in the name of Rav Avdimi ben Rav Yosef, who says that this Pasuk teaches us that anyone who properly gives Leket, Shichecha, and Peiah to the poor is considered as if he had built the Beit HaMikdash and offered Korbanot within it. Maharal wonders why this blessing is reserved for one who performs the Mitzvot of Leket, Shichecha, and Peiah and not for one who gives Tzedakah regularly as discussed in Parashat Re'eh. Why do Chazal make this comparison only in regards to Matnot Aniyim?

Maharal explains that as long as one gives Tzedakah as a response to the plight of the poor, he isn't giving because he wishes to fulfill the will of Hashem. Our performance of Mitzvot is governed by the principle of "Gadol HaMetzuvah VeOseh MiMi SheAino Metzuvah VeOseh," "One who performs Mitzvot because he is commanded to is greater than one who performs them when he is not commanded to" (Kiddushin 31a). Matnot Aniyim, on the other hand, are not given in response to any pleas, but rather are left for the poor to collect. Therefore, this charity is done solely because it is Hashem's will. Farmers don't necessarily see the poor, and therefore leave their gifts because Hashem commanded them to do so, and not because they feel compelled to help someone in need. Unlike regular Tzedakah, Matnot Aniyim are completely altruistic in nature, and therefore one who fulfills Matnot Aniyim specifically is likened to one who has offered a Korban to Hashem.

It is surely a great Mitzvah to give Tzedakah when requested to do so. But it is even greater to give it unsolicited out of desire to fulfill Hashem's will. By engaging all forms of Tzedakah, we can help speed the rebuilding of the Beit HaMikdash and the reinstitution of Korbanot.

## THE VITAL IMPORTANCE OF SEEMINGLY IRRELEVANT HALACHOT

by Tani Greengart ('18)

The words "VaYedabeir Hashem El Moshe Acharei Mot Shnei Bnei Aharon," "God spoke to Moshe after the deaths of Aharon's two sons" (VaYikra 16:1) mark the beginning of Parashat Acharei Mot that we read last week, but they might

be more relevant to Parashat Emor, which begins with laws that should be directly relevant to the deaths of Aharon's sons. The first topic in Emor is the Halachot that describe what Kohanim, like Aharon, can and cannot do after the deaths of family members, like the deceased Nadav and Avihu, Aharon's sons.

God tells Moshe to tell the sons of Aharon that a Kohein cannot make himself Tamei, impure, by touching a dead body for any reason, except upon the death of a member of his immediate family: his parents, children, or siblings (21:2). But even for the death of one of these family members, he may not shave any part of his head or beard, and he may not cut himself in grief (21:5).

The Kohein Gadol faces different, more stringent restrictions upon the death of an immediate family member. He is *never* allowed to touch a dead body,<sup>1</sup> not even those of his beloved parents (21:11). Contrary to a regular Kohein, he is forbidden to grow out his hair, and he may not tear his clothing (21:10). And he may not leave the Mishkan to mourn; he must stay and continue the holy Avodah (21:12).

As alluded to above, Sefer VaYikra contains the perfect story in which we should be able to see these Halachot in action. Nadav and Avihu, sons of Aharon, die while bringing an unwanted Korban to Hashem (10:1-2). According to the Halachah mentioned here, Aharon, as Kohein Gadol, should be required to continue the usual Avodah and should be barred from growing out his hair or tearing his clothing. However, his remaining sons, Elazar and Itamar, are just regular Kohanim, and should therefore be allowed to touch, bury, and mourn for their dead brothers. They should also be required to grow out their hair and beards.

And indeed, Moshe's instructions to Aharon follow these Halachot precisely. Moshe instructs Aharon to do exactly what we would expect of a Kohein Gadol: not to grow out his hair or tear his clothes (10:6) and to remain in the Mishkan (10:7) to do the Avodah.

But peculiarly, Moshe also gives Elazar and Itamar the exact same instructions as Aharon; they are also forbidden to mourn. So instead of burying their dead brothers, they watch helplessly as their cousins<sup>2</sup> drag Nadav's and Avihu's bodies by their tunics all the way from the Mishkan to the edge of the camp (10:4-5).

Why are Elazar and Itamar assigned the Halachot of the Kohein Gadol with regard to the deaths of Nadav and Avihu?

Rashbam (VaYikra 10:6-7 s.v. Rosheichem Al Tifra'u) answers this question. He points out that the reason stated by the Torah in Parashat Emor as to why the Kohein Gadol is barred from mourning is that the Kohein Gadol has been sanctified with God's anointing oil (10:7). Putting the puzzle pieces together, Rashbam concludes that Elazar and Itamar take on the Halachot of the Kohein Gadol with regard to dead relatives and thus are commanded to stay in the

<sup>1</sup> Technically, the Kohein Gadol is *almost* never allowed to touch a dead body; if the Kohein Gadol comes across a Meit Mitzva, a dead body lying in a field, and there is nobody else to bury it, the Kohein Gadol is required to bury the body, becoming Tamei in the process.

<sup>2</sup> First cousins once removed, to be exact.

Mishkan because they, like their father, were anointed with oil at their inauguration as Kohanim (8:30).

We now understand why Aharon's sons are required to observe the Halachot of the Kohein Gadol. But this brings up a second question--if they are considered like the Kohein Gadol, why does Moshe bother telling them, "*HaKohanim, Bnei Aharon,*" "the Kohanim, [Elazar and Itamar,] the sons of Aharon" (21:1), when the Halachot are not applicable to them?

Perhaps a comment of the Gemara (Yevamot 114a) can explain this difficulty. The Gemara notes that the first Pasuk of Emor contains a seemingly superfluous phrase: "*VaYomer Hashem El Moshe, Emor El HaKohanim Bnei Aharon, VeAmarta Aleihem LeNefesh Lo Yitama BeAmav,*" "God said to Moshe, 'Speak to the Kohanim, the sons of Aharon, and tell them that they may not become impure for his relatives' (21:1). The Gemara explains that the words "*VeAmarta Aleihem,*" which appeared at first to be redundant, actually teach a vital lesson: "*Emor VeAmarta--Lehaz'hir Gedolim Al HaKetanim,*" "[the purpose of both words] 'Emor' and 'VeAmarta' is for adults to warn their children" about the dangers of Tum'ah. The children of Kohanim must be ingrained from a young age by their parents with the ideas that their purity is incredibly important and that they must be incredibly careful around transmitters of impurity.

Parashat Emor teaches us the obligation of parents to educate their children. Elazar and Itamar, having been anointed with oil, just as their father was, followed the laws of Tum'ah that normally applied only to the Kohein Gadol. Even though the laws of Tum'ah for ordinary Kohanim did not apply to Elazar and Itamar, they were nevertheless taught the Halachot in order to relay them to their children. If Elazar and Itamar taught their children Halachot which they themselves did not even need to keep, how much more so must we teach our children all of the Torah which we are commanded personally to uphold. Knowledge of Torah and Halachot is paramount, and there are no better people than parents to pass it along.

## A HALACHIC ANALYSIS OF SPAY/NEUTER

by Scott Sears, J.D.

### I. Introduction

Many states and local governments have laws that require the spaying and neutering of animals.<sup>3</sup> In 2001, as a result of the New York legislature's findings that there was an overpopulation of dogs and cats in New York, the public policy of New York State became that "every feasible humane means of reducing the production of unwanted puppies and kittens [shall] be encouraged."<sup>4</sup> As such, any shelter, pound, or a few other similar organizations<sup>5</sup> that release animals must ensure that the dog or cat is spayed/neutered.<sup>6</sup>

In other places, such as Dallas, Texas and Los Angeles, California, there are spay/neuter ordinances

which provide that all dogs and cats in the city must be spayed or neutered, with certain exceptions.<sup>7</sup>

In this article, I will analyze the issues involved in spay/neuter in Jewish law.

### II. Processes of Sterilization

Spaying and neutering are surgical procedures performed by veterinarians that render animals incapable of breeding by removing their reproductive organs.<sup>8</sup> When a female dog is spayed (also called an ovariohysterectomy), the ovaries, fallopian tubes, and uterus are removed.<sup>9</sup> Neutering commonly refers to the castration of males and the complete removal of their testicles.<sup>10</sup>

According to Dr. Elizabeth Lynch, the way these surgeries are generally carried out is as follows<sup>11</sup>: female animals have an incision made just below the belly button into the abdomen.<sup>12</sup> The reproductive tract, both ovaries, and the uterus are completely removed through this incision.<sup>13</sup> Then the incision is closed with two layers of stitches under the skin that will dissolve and be absorbed by the animal's body over time.<sup>14</sup> The skin is then closed with either skin glue, skin staples, or stitches.<sup>15</sup>

Male dogs have an incision made in the skin at the base of the penis nearest to the scrotum.<sup>16</sup> Both testicles are removed through this incision.<sup>17</sup> The incision is closed with stitches under the skin that will dissolve and be absorbed by the body over time.<sup>18</sup> The skin is closed with skin glue, skin staples, or stitches.<sup>19</sup> Male cats have an incision made in the skin of the scrotum, and the testicles are removed.<sup>20</sup> The incision is not sealed, but closes on its own with time.<sup>21</sup>

In addition, there is a newer, non-invasive and non-surgical process of sterilizing male dogs referred to as "zeutering." In this process, Zeuterin, a zinc-gluconate solution, is injected directly into a dog's testicles.<sup>22</sup> This injection destroys all the sperm in the seminiferous tubules and in the epididymous, causing the seminiferous tubules to collapse.<sup>23</sup> Within days, scar tissue from the healing process creates blockages in the seminiferous tubules and the rete testis.<sup>24</sup> Over time, the seminiferous tubules, rete testis, epididymis, and prostate will atrophy.<sup>25</sup> Sperm production stops within one to three days.<sup>26</sup> However, active sperm may still be in the vas deferens and epididymis for up to 30 days, and as such the dog may be able to impregnate up to 30 days

<sup>7</sup> See Fn 1.

<sup>8</sup> <https://www.aspc.org/pet-care/dog-care/spay-neuter>

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> <http://www.mspca.org/programs/spay-neuter/ask-a-vet-spay-neuter-faq.html>

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> <http://suffolkveterinarygroup.com/well-pet-care--reduced-cost-well-pet-zeuterin-neuter/about-zeuterin-neuter.html>

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>3</sup> For an overview, see

<https://www.avma.org/Advocacy/StateAndLocal/Pages/sr-spay-neuter-laws.aspx>

<sup>4</sup> N.Y. Agric. & Mkts. Law § 377-a(1)

<sup>5</sup> Humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals.

<sup>6</sup> See Fn 2 at 2.

after the injection.<sup>27</sup> This procedure is 99.6% effective in causing sterilization.<sup>28</sup>

### III. Source of Prohibition

The Torah prohibits the sacrificial use of animals whose "testicles are bruised, crushed, torn or cut<sup>29</sup>," and further prohibits one from castrating any animal<sup>30</sup>. This prohibition applies to insects as well.<sup>31</sup> The sages understood this verse to prohibit sterilization of all male creatures, human and animals alike.<sup>32</sup>

#### A. Female Sterilization

The Torah verse forbidding sterilizing animals speaks specifically about male animals<sup>33</sup>. The Sifra<sup>34</sup> comments that this prohibition does not apply to female animals. The Rambam explains that while the sterilization of female animals is permitted on a Biblical level, the act itself is nevertheless prohibited on a Rabbinic level<sup>35</sup>. The Shulchan Aruch rules in accordance with this view of the Rambam.<sup>36</sup> However, according to the Vilna Gaon, this prohibition applies even to female animals on a Biblical level.<sup>37</sup> According to those that believe female sterilization is only forbidden on a Rabbinic level, there can potentially be more room for leniencies when it comes to spaying female animals, as explained below.

### IV. Non-Jew

#### A. Non-Jew for himself/other non-Jew

The Talmud<sup>38</sup> records a dispute regarding whether the Torah forbids non-Jews to remove reproductive organs. The Rosh, Rashba, and the Rambam all rule that a non-Jew is not commanded in the prohibition of castrating animals.<sup>39</sup> On the other hand, the Smag and the Hagahot Oshri rule that castration is included in the Noahide laws that non-Jews are obliged to follow.<sup>40</sup> The Beit Shmuel<sup>41</sup> rules that because this controversy has not been resolved, one must act in accordance with the view that non-Jews are forbidden to remove reproductive organs. On the other hand, the Aruch Hashulchan<sup>42</sup> rules in accordance with the majority opinion, that non-Jews are not commanded concerning this prohibition.

A difference between the two opinions is that if non-Jews are included in this command, then instructing a non-Jew to remove reproductive organs would be a biblical violation of "do not put a stumbling block in front of the blind"<sup>43</sup>, which prohibits enabling and encouraging others to sin.<sup>44</sup> The Rama rules that one can sell their animal to a non-Jew even if the non-Jew will definitely castrate the animal,

although he notes that there are those that say that this is forbidden.<sup>45</sup>

#### B. For a Jew

The Talmud states<sup>46</sup> that if a Jewish person brings an animal to a non-Jewish veterinarian to be sterilized, the Rabbis penalize the violator and force him to sell his animal to someone else so that he does not benefit from his sin. The Shulchan Aruch rules this way explicitly,<sup>47</sup> i.e. that it is forbidden to have a non-Jew to castrate an animal belonging to a Jew, and that if one does so, one must sell their animal.

##### i. Possible Workaround

The Rama<sup>48</sup> says that although it may be forbidden to sell one's animal to a non-Jew if one knows the non-Jew will castrate the animal, there is a workaround in which even those that forbid such a practice would allow an animal to be castrated. This is if the non-Jew that purchases the animal has another non-Jew castrate the animal.<sup>49</sup> The reason this is permitted is that there is no prohibition of enabling someone help someone else sin.<sup>50</sup>

The Chazon Ish<sup>51</sup> was asked if one can sell their animal to a non-Jew and instruct that non-Jew to have another non-Jew castrate the animal. The Jew would then buy the animal back from the non-Jew. The purpose of this procedure was to get around the penalty requiring one to sell their animal if they have their animal castrated,<sup>52</sup> as well as comply with the workaround of the Rama.<sup>53</sup> The Chazon Ish ruled that this practice is perfectly acceptable.<sup>54</sup>

Rabbi Chaim Jachter<sup>55</sup> notes that this ruling was given regarding animals used for commercial purposes. He points out that many contemporary halachic authorities<sup>56</sup> do not approve this method for household pets if done for convenience.<sup>57</sup> On the other hand, Rav J. David Bleich is of the opinion that this practice would be perfectly acceptable to be used for household pets as well, as there is no reason to distinguish between commercial animals and household pets.<sup>58</sup>

Given the lighter strictures regarding female species and claims of significant health benefits, Rav Shlomo Aviner allows a Jewish veterinarian to spay female pets,<sup>59</sup> and Rav Shmuel Vosner<sup>60</sup> does not protest having a non-Jew perform the procedure for a female animal, although

<sup>45</sup> Even Ha'ezer 5:14

<sup>46</sup> Fn 36

<sup>47</sup> Fn 43

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Beit Shmuel Even Ha'Ezer 5:19

<sup>51</sup> Choshen Mishpat 185

<sup>52</sup> See Fn 43

<sup>53</sup> *Id.*

<sup>54</sup> Fn 49

<sup>55</sup> Journal of Halacha & Contemporary Society - No. XXIII, Spring, 1992, Pesach 5752

([http://www.daat.ac.il/daat/english/halacha/jachter\\_1.htm](http://www.daat.ac.il/daat/english/halacha/jachter_1.htm))

<sup>56</sup> *Id.* Rav Reuven Feinstein and Rav Herschel Schachter)

See also Shu't Bemareh Bazak 6:77.

<sup>57</sup> A discussion of spay/neuter done for medical purposes is beyond the scope of this paper.

<sup>58</sup> Based on communication with the author 4/28/15. Rabbi Bleich cautions, however, that it is very difficult to perform a halachically valid sale to a non-Jew, rendering such a practice ill-advised. This caution would seemingly carry over the Chazon Ish's case as well.

<sup>59</sup> She'elat Shlomo v.6

<sup>60</sup> Shevet Halevi 6:204

<sup>27</sup> *Id.*

<sup>28</sup> <http://www.arksciences.com/faq.html>

<sup>29</sup> Leviticus 22:24

<sup>30</sup> *Id.*, with Rashi's interpretation.

<sup>31</sup> Rabbeinu Gershom to Bava Basra 80a.

<sup>32</sup> Shabbat 110b

<sup>33</sup> See Fn 27

<sup>34</sup> *Id.*

<sup>35</sup> Mishneh Torah, Hilchot Issurei Biah 16:11

<sup>36</sup> Even Ha'ezer 5:11

<sup>37</sup> Even Ha'ezer 5:25

<sup>38</sup> Bava Metzia 90b

<sup>39</sup> As cited in Beit Shmuel Even Ho'ezer 5:16

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> Even Ha'ezer 5:26

<sup>43</sup> Leviticus 19:14

<sup>44</sup> See Fn 36



he suggests one should avoid doing so. Sephardic Chief Rabbi Shlomo Amar has reportedly contended that because of public safety concerns from wild and ownerless animals, one may ask a non-Jewish veterinarian to spay and neuter pets of both genders.<sup>61</sup> The common practice, however, seems to forbid spaying and neutering animals.

spaying/neutering all cats and dogs. Therefore, unless a halachically approved way of spay/neuter becomes available, the general halachic view remains in opposition to the public policy on the issue of spay/neuter.<sup>70</sup>

## V. Method of Castration

### A. Spay/Neuter

The Shulchan Aruch says explicitly that removing the reproductive organs of animals is completely forbidden, for males on a Biblical level, and for females on a Rabbinic level.<sup>62</sup> As such, the classic methods of spay/neuter is completely forbidden under Jewish law.

### B. Zeutering

Another method of sterilization mentioned in the Shulchan Aruch is by having the animal drink a substance that causes it to become sterile.<sup>63</sup> This method of sterilization is only forbidden for males and is completely permitted for females.<sup>64</sup> Some hold that this form of sterilization for males is forbidden on a Biblical level, while others maintain that it is only Rabbinically forbidden.<sup>65</sup>

Zeutering seems directly analogous to drinking a potion: In both cases the reproductive organs are not fully removed, yet the animal is rendered sterile. There are two possible differences, though, that may have significant halachic ramifications. The first is that zeutered animals can still reproduce for 30 days after injection.<sup>66</sup> As such, one can argue that this is only *gramma*, which though forbidden in many instances, provides room for leniencies in certain situations.<sup>67</sup> However, though not directly mentioned, one can assume that whatever substance referred to in the Shulchan Aruch would not cause instantaneous sterilization – it would presumably first need to be digested, which may take some time. As such, the fact that it takes time before the animal is rendered sterile after being zeutered likely would not have a halachic impact.

The second difference is that zeutering is 99.6% effective.<sup>68</sup> Though statistically improbable not to work, this possibility knocks zeutering down from an act of sterilization to a *psik reishai*. Though sterilization using a *psik reishai* is still completely forbidden,<sup>69</sup> it likely would knock down the prohibition from a Biblical to a Rabbinic level according to those that are of the opinion drinking the substance is Biblically forbidden.

## Conclusion

Though advocated as public policy, it seems the vast majority of halachic authorities do not approve of

<sup>61</sup> Though reported on multiple websites, the author was not able to locate such a statement. See, e.g., <http://www.nrg.co.il/online/1/ART1/479/941.html>. Editor's note: This reported ruling may apply only to Israel where there are many stray cats.

<sup>62</sup> Even Ha'Ezer 5:11

<sup>63</sup> Even Ha'Ezer 12.

<sup>64</sup> Id.

<sup>65</sup> Otzar Haposkim I, commenting on Id. Those that hold the action is Biblically forbidden include the Bait Yehuda in the name of the Ramach and the Rambam, as interpreted by the Nesivot and Torat Chaim. The Meiri and the Yad Aharon both contend it is only forbidden on a Rabbinic level.

<sup>66</sup> Fn 25

<sup>67</sup> A discussion of *gramma* is beyond the scope of this paper.

<sup>68</sup> Fn 26

<sup>69</sup> Beit Shmuel 5:13

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<sup>70</sup> Editor's note: pet owners are encouraged to ask their Rabbanim if it is permitted to ask a non-Jew to zeuter their male pet.