

Nature in the Parasha

By Rebbetzin Chana Bracha Siegelbaum

Parashat Emor

The Problem of Pet Sterilization

My son, Meir, recently became a dog owner. Together with my daughter in law and granddaughters, their life has been enriched by the loving dog Chiquita. She mainly lives on their porch, but is allowed in the house whenever they are home. She is a very good-natured and friendly dog and doesn't bark much, in other words, this is a dog with excellent *midot* (character traits)! The children learn a lot from taking care of Chiquita. My daughter in law reports that they have become more in touch with their feelings, more cooperative and sharing. By trying to feel how Chiquita feels, they become more aware of how other kids feel. Actually, the whole family is happier since they brought Chiquita home. Daily contact with the dog and responsibility for her care offers my grandchildren a sense of self-worth, as animals are so accepting. One day Chiquita escaped and only returned the next day. Exactly two months after on a Friday when I was eagerly expecting a Shabbat visit of my children and grandchildren, I got a phone call from Meir, "Eh *Mazal tov* we had puppies." He hesitatingly began. "We don't exactly know about coming for Shabbat as we can't leave the dog alone now with the seven new puppies." I was a bit in shock, I didn't even know she was expecting. What was my son and his family going to do with all those puppies? So many mouths to feed and so much work to take care of them all. Knowing how busy they both are, working full time and also studying. What about coming for Shabbat? Would they ever be able to leave all those dogs?

Meanwhile, they managed, the puppies were nursing and the children were delighted, they each adopted two of the puppies, which they eagerly named after their favorite ice-cream, names such as Chocho, Vanilla and Banana. Three month later, they were still the proud owners of eight dogs. "What are you going to do with all these puppies?" I asked my son. "We are trying to find homes for them. Do you know anyone in Bat Ayin who would be interested?" answered my son with a question. "Sorry no, I absolutely know no-one who would want to adopt a mutt puppy. I only know people who are trying to get rid of their extra dogs and cats." In fact, the Bat Ayin community has its own strays. Some got lost and never returned and they continue to multiply until happily ever after. The holy city of Jerusalem too is bursting with stray cats, and so are many other places I have been. We even have a special name for these strays: 'Garbage cats.' Because of the scarcity of food to feed them all, they have this scrawny famished look. So, I told my son, "You may want to look into spading your dog, so you won't have seven new dogs every year. I know it is a halachic problem, but there must be some way to get around it. I mean, some way to do it in a permissible halachic way, 'cause I can't believe Hashem wants this overpopulated unbalanced situation which is the source of much *tzar ba'alei chaim* (pain caused to animals)." I was happy when a few weeks after this conversation I found the prohibition to castrate people and animals in this week's *parasha*. This would be my opportunity to look into what the Torah has to say on the topic. Read on to learn the answers I found.

To Spay or not to Spay

This week's *parasha* discusses disqualification of animals for sacrificing. A male cow, sheep or goat that has been sterilized may not be sacrificed as it states,

ספר ויקרא פרק כב וּמְעוּהָ וְכַתוּת וְנִתּוּק וְכָרוֹת לֹא תִקְרִיבוּ לַיהוָה וּבְאַרְצְכֶם לֹא תַעֲשׂוּ:

“You shall not offer to Hashem anything which has its testicles bruised, crushed, torn, or cut; neither shall you do thus in your land (*Vayikra* 22:24).

Rashi explains that this prohibition is a personal responsibility of the individual and not a duty to be practiced only in the land of Israel such as *bikurim* (first fruit sacrifice), *chalah* (bread tithes) etc. The phrase, “Neither shall you do so in your land,” therefore, comes to include any animal that exists in your land whether kosher or non-kosher. Likewise, the Talmud records that when the students asked Ben Zoma, “What about castrating a dog?” He replied in the negative, “Anything in your land you shall not do” (*Babylonian Talmud, Chagigah* 14b). The sages understood this verse to prohibit sterilization of all male creatures, human and animals alike (*Sifra Emor* 121). The Torah verse applies to any deliberate impairment of the male reproductive organs in domestic animals, beasts, birds, and man, including the castration of a person who is already impotent or genitally maimed (*Babylonian Talmud, Shabbat* 110b). While the biblical commandment for men remains clear, scholars debated its applicability to women. While some maintain that females are also biblically prohibited from removing internal sexual organs, it is halachically accepted to be a lighter rabbinic violation (*Even Ha’ezer* 5:11). Neutering female animals may only stem from the laws against *tza’ar ba’alei chayim* (causing suffering to animals), and for women from the general prohibition of causing someone pain (*Taz* 5:6). Therefore, many halachic authorities permit hysterectomies for therapeutic purposes and to prevent dangerous or unusually painful childbirth (*Bach* EH 5), However, they remain less preferable options when nonsurgical forms of contraception are equally available (*Igrot Moshe* EH 4:34). Whether Noachide laws includes the prohibition of sterilization is disputed. Whereas the Talmud records one view according to which the ban on castration is included among the Noachide Laws (*Babylonian Talmud, Sanhedrin* 56b), many halachic authorities assert that non-Jews are permitted to perform these procedures (*Aruch Hashulchan* 5:26).

Fruitful and Multiplying

Sefer HaChinuch explains the reason for the prohibition of sterilization from an early environmentalist perspective. Castration may bring about extinctions which could impoverish our rich, diverse, various, complex world, a world with many species, which the Creator called “good” and “very good” (*Bereishit* 1:25, 31).

מִשְׁרָשֵׁי הַמִּצְוָה, לִפִּי שֶׁהַשֵּׁם בְּרוּךְ הוּא בְּרָא עוֹלָמוֹ בְּתַכְלִית הַשְּׁלִימוֹת, לֹא חָסַר וְלֹא יָתַר בּוֹ דָּבָר מִכָּל הָרְאוּיָה לֵהוּיֹת בּוֹ לְשִׁלְיֹמוֹתוֹ, וְהִיָּה מִרְצוֹנוֹ וּבִירְךְ בְּעֲלֵי הַחַיִּים לֵהוּיֹתָם פְּרִים וְרִבִּים, וְגַם צוּה הַזְּכָרִים מִמִּין הָאָדָם עַל זֶה, לִמְעַן יַעֲמֹדוּ, שֶׁאִם לֹא כֵן, יִהְיֶה הַמִּין כֹּלָה אַחֵר שֶׁהַמּוֹת מְכַלָּה בָהֶם, וְעַל כֵּן הַמַּפְסִיד כְּלֵי הַזְּרַע מֵרָאָה בְּנַפְשׁוֹ כִּמִּי שֶׁהוּא קֵץ בְּמַעֲשֵׂה הַבּוֹרָא וְרוּצָה כִּהֲשַׁחֲתַת עוֹלָמוֹ הַטּוֹב:

“The root of the mitzvah is that Hashem may He be blessed, created His world for the purpose of perfection. There is nothing lacking or is extra in it from what is suitable for the perfected world. Through G-d’s benevolent will, He blessed the animals to be fruitful and multiply. He also commanded the human males about this, in order that they endure. If not so, the species would be

extinct. Therefore, if someone incapacitates the male sexual organs, he shows himself to be as one who cannot tolerate the work of the Creator and desires the destruction of His good world” (*Sefer HaChinuch*, Mitzvah 291).

The mitzvah to be fruitful and multiply has such a central place in the Torah. It is ingrained in the very fabric of creation when all species was blessed with fruitful procreation. The mitzvah to be fruitful and multiply is also the very first mitzvah given to humanity (*Bereishit* 1:28). Unfortunately, we have destroyed the eco balance of the earth, and somehow this has caused an overpopulation of certain species. Therefore, spaying dogs and cats will no longer threaten these species from being extinct. On the contrary, it would avoid contributing to the population of unwanted dogs and cats. Certainly, no one wishes to see packs of starving feral dogs roaming our cities, or desperate bony cats massacring our remaining songbirds. So what can we do about this problem in a halachic permissible way?

Finding a Permissive Halachic Way to Neuter Your Pet

In recent years, both public health officials and animal rights groups have advocated that pet owners neuter their pets. They note that excessive reproduction and overpopulation can endanger the animal, the species and the public. Experts advise us to neuter our cats and dogs. We should do so, they say, as responsible pet owners.

1. While halacha prohibits us from neutering our pet, it does not prohibit us from owning a pet that is already neutered. Therefore, one solution is to acquire and already neutered pet.
2. There is no halachic prohibition against using hormonal treatments or contraceptives, when available, to limit fertility.
3. Most halachic authorities hold that a Jew may not take his pet to a non-Jewish vet to get it fixed, since it's not permitted for a Jew to tell a non-Jew to perform a Torah prohibition. A Jew may not ask a non-Jew to sterilize for himself (*amira le'akum*), even in a subtle or indirect manner (EH 5:14). However, it may be permissible to sell our animal to gentiles, who in return would get a second non-Jew to neuter the animal. Then, if both parts agree, it would be allowed to buy back the animal. This law was originally instituted by 19th century scholars to prevent severe financial loss from business owners who used animals for commercial purposes, (*Ha'elef Lecha Shlomo* EH 23). Although many contemporary halachic authorities believe it inappropriate to utilize this procedure with household pets for purposes of convenience (e.g. to eliminate unwanted litters or to prevent the animal from trying to leave the house), (*Shu"t Bemareh Bazak* 6:77), it is quite possible that one may do so if it is necessary to alleviate an animal's suffering due to sickness. *Aruch Hashulchan* would very likely agree with this conclusion since he rules that non-Jews are permitted to remove reproductive organs. Whereas we may not violate a biblical prohibition to alleviate an animal's suffering, it is possible that we may violate the rabbinic prohibition to ask a non-Jew to do what a Jew may not do in order to alleviate suffering.

4. An alternative solution has been offered by Rabbi I. Y. Unterman (*Otzar Haposkim* I, pp. 164-165). He describes a procedure of neutering which he believes constitutes only a rabbinic prohibition since it does not involve direct removal of reproductive organs. Instead, the blood supply to the testicles is eliminated and the animal is rendered sterile. Rabbi Unterman asserts that one who performs this procedure violates the prohibition indirectly (*grama*) which is permitted on a Torah level and forbidden by the rabbis. The authorities who rule that non-Jews are forbidden to neuter animals concede that non-Jews are forbidden only to perform biblically forbidden acts of neutering. Non-Jews are not required to follow rabbinic legislation.

5. There is greater room for leniency when a female pet is involved since many authorities believe neutering a female to be a rabbinic prohibition, and a minority opinion (*Taz, Even Haezer* 5:6) believes that one is permitted to neuter a female animal if the procedure is performed for the creature's benefit. As with most mitzvot, sterilization becomes permissible when done for urgent therapeutic needs. Given the lighter strictures regarding female species and claims of significant health benefits, Rabbi Shlomo Aviner allows a Jewish veterinarian to spay female pets (*She'elat Shlomo* v.6), while Rabbi Shmuel Vosner (*Shevet Halevi* 6:204) more hesitantly permits a non-Jew to perform the procedure.

6. Recently, Sephardic Chief Rabbi Shlomo Amar has alternatively contended that because of public safety concerns from wild and ownerless animals, one may ask a non-Jewish veterinarian to neuter pets of both genders.

Wow, I didn't know this topic was so complicated. Seems to me that to be on the sure halachic side it doesn't hurt to ask our personal Rabbi before getting involved in neutering our animal in any way.