

OFFICE OF THE RISHON LEZION

CHIEF RABBI OF ISRAEL

With the Help of Heaven
5 Av, 5766 (30-7-06)
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Attorney Yadin Elam
Director, Hakol Chai Organization

Shalom,

You will find here the responsum of the Rabbinic court judge, Harav Hagaon David Bardugo, *shlita*, to your question regarding horse races. This responsum was approved by our master, the Rishon Lezion, the Chief Rabbi of Israel, Hagaon Harav Shlomo Moshe Amar, *shlita*.

With blessings,

Rabbi Yigal Krispal

Head of the Office

With the Help of Heaven
Shabbat Hukat, 5766
[1-7-06]

To

Maran, the Rishon Lezion, the Great Gaon, Rabbi Shlomo Moshe Amar, *shlita*
The Chief Rabbi of Israel and President of the Great Rabbinic Court

Greetings to Ha-Rav Hagaon, *shlita*

Regarding the question which was addressed to the Honor of his Torah by the Director of Association *Hakol Chai* regarding preventing pain to animals, the following being the substance of the question:

Is it permitted, according to the Torah, to conduct horse races for purposes of gambling and to watch them, when it is known that these horses undergo various treatments that involve great pain to animals, and that they are forced to run even when they are injured, and that they are subject to a cruel training regimen already from a young age, even before their bones have become firm, causing them to break? They are also given drugs that harm them in the long run. All of the horses suffer from stomach ulcers, and a large majority of them suffer from bleeding in the lungs as a result of the races. Finally, and most serious, their life expectancy is 2/3 shorter than that of other members of their species that are not engaged in their racing. Thus far the question. And due to the lack of time and the numerous holy duties upon the shoulders of our teacher, the Rishon Lezion, *shlita* he referred this question to me, as light in knowledge as I may be, and his modesty has caused me increase. And this is what is to be said on this matter in brief, in my opinion.

A similar matter is discussed by our teacher, the glory of the generation, the Rishon Lezion, Rav Ovadia Yosef, *shlita*, in his responsa *Yahaveh Da'at* (III.66), regarding the question as to whether it is permissible to watch bull fighting in a stadium. And he raised there [the objection] that there is [a violation of] the prohibition of assisting in the performance of a transgression when he pays the entrance fee in order to observe a display which is based entirely on cruelty, that they starve and cause pain to the bull before he enters the stadium, and thereafter they taunt him and stab him and so forth. And he cited there the main principles of [the law of] causing pain to animals and its gravity, both from texts and from scholars. And according to this one can say quite simply that the same applies to the case in hand.

However, one might argue that that case is different, because there the very spectacle involves cruelty, which is not the case in horse races, in which generally speaking—particularly those races which are held for purposes of gambling—the horses are not forced to race when they are hungry and tired. Hence, all that which is discussed above might be compared to what is written in *Terumat Hadeshen* (II.105; by R. Israel Isserlein, 14th century Germany) and ruled in *Shulhan Arukh, Even Haezer* (5.14 in *Hagahat ha-Rema*), that it is permitted to pull out the feathers of geese while they are still alive if this is done for one's need and one's use, for "all living creatures were only created to serve man," as stated in the final chapter of *Kiddushin*. For if this were not

so, how would it be permissible to place a heavy burden upon an animal to carry it from place to place? So, too, those engaged in horse racing do so for purposes of livelihood, and even if in doing so a certain pain is caused to the horses, these creatures were only created to serve man, as stated in the above-mentioned passage from *Terumat Hadeshen*. And it further states at the end of the above mentioned responsum in *Terumat Hadeshen*, in the name of the rulings of the *R"i* (Rabbenu Yitzhak), in the first chapter, as follows: “Moreover, the prohibition of causing pain to animals only applies if he derives no benefit from it.”

But in addition to the fact that one may argue that a “business” of this type is not included in the permission of the *Terumat Hadeshen*, seeing that it involves transgression as a form of gambling and “playing with dice,” which our Rabbis prohibited in Sanhedrin (24b); it is also considered as a *moshav leitzim* [gathering of scoffers or idlers], as written in tractate *Avodah Zarah* (18b): “Our Rabbis taught: One who goes to a stadium or to a circus, and sees there enchanters and the magicians and the people performing magic, this is considered an ‘assembly of scoffers.’” And certainly it was not regarding such things that the Torah said ‘and you shall rule over the fish of the sea’ [Gen 1:26], nor was it of this that our Rabbis said that the creatures were only created to serve man; for in *Pesahim* (49b) they said, “An ignorant person is forbidden to eat meat, for it says ‘this is the Torah of the beast and the fowl’ [Lev 11:46]—Whoever engages in Torah is permitted to eat flesh of beasts and fowl...” All the more so [not] to do an act involving an actual transgression.

And the *Terumat Hadeshen* himself wrote there as follows: “And do not answer me by citing what is stated in the first chapter of *Hullin* (7b) about the story of Rabbi Pinhas Ben Yair, ‘If you pull out [his hoofs] that is considered as [prohibited] pain to animals,’ for in that case he did not do so for his own use or to beautify it, but so that it not cause harm, and such harm is not commonly found, for presumably Our Holy Rabbi [i.e., Rabbi Judah the Prince] would not raise a harmful animal within his home. But rather, Rabbi Pinhas ben Yair, because of his great piety, was insistent [that Rabbi not raise mules in his home].” That is, even to remove an unusual kind of [potential] damage, he did not want to remove [their hoofs] because of the pain caused to the animal, for pain to animals was only permitted for his use or in order to beautify them, literally—that is, for some permitted form of use, from an *ad majorum* reasoning that one may not even [cause them pain] through removing an unusual source of damage, as was prohibited by Rabbi Pinhas ben Yair. And this is obvious and there is no need for proof, except in order to “magnify Torah.”

Moreover, according to the language of the question considered here, it is stated that it is well-known that, in order to choose [i.e., breed] race horses they put to death or sell the flesh of other horses who are not suitable for racing, and this involves the prohibition against wanton destruction, as is written in *Hullin* (7b), “If one puts them to death, this is called wanton destruction.” And see further in *Yahaveh Da'at* (ad loc.) for what is written in the name of the holy *Or ha-Hayyim*, that one is only permitted to kill animals by means of *shehitah* [ritual slaughtering]. And if, Heaven forbid, they would be tempted to market horse flesh, this would also involve the prohibition of “you shall not put a stumbling block before the blind” [Lev 19:14], and one cannot imagine a greater breach of the law than this. And if we regret the former things, that there has recently, in our great sins, been a breach in the sale of the flesh of ‘another thing’ [i.e.,

swine], may the good God atone for this. [that is, the author is worried that breeding horses for racing would lead to the presence of horse meat on the market in Israel, in addition to pork]

In addition to all the above-mentioned things, the seriousness of the prohibition against causing pain to animals is well-known, its punishment being mentioned alongside it [in the Torah verses], as is written there in *Terumat ha-Deshen*: that even if by a simple reading of the law it might be permitted to pull out feathers from a goose while it is still alive, for human needs, nevertheless “the [consensus of the halakhah - observant] world are careful and refrain from doing this.” And the reason for this may be that they do not wish to engage in a cruel form of behavior against animals, for they are fearful of being punished for this, as in the incident involving Our Holy Rabbi regarding a certain calf (*Bava Metzi’a*, Chapter *Hapo’alim* [88b]), and as is well-known also in the story of the Holy Ari and the women-workers, and there is no room to elaborate upon this here. Hence the same holds true regarding the present case: that one must be wary of [Heavenly] punishment on account of the pain caused to the horses. Particularly at this time, when the entire community in the Land of Israel is in need of great mercy from heaven, we are called upon more emphatically to engage in acts of compassion so as to increase the Attribute of Compassion; and, as in the saying of our Rabbis of blessed memory (*Shabbat* 151b), “Whoever shows compassion to living creatures, compassion is shown him from Heaven.” And in the story of Rabbi, who said to his handmaiden: “Release it, for it is written, ‘and His mercy is over all his creation’ [Ps 145:9]. They said [in Heaven]: as he exhibited compassion, so shall he be shown compassion.” Therefore, Heaven forbid that we should awaken the Attribute of Cruelty by training horses in a cruel manner.

And see further in Responsa *Yabia Omer* (by Rav Ovadia Yosef; IX: *Yoreh Deah*, §13), who dealt with the question of force-feeding geese in order to sell their liver, because of the problem of creating perforations in their windpipes. And he wrote there: “Therefore... one should not encourage those who behave with cruelty towards animals for the sake of profit. And we hold (*Shabbat* 128b) that the prohibition of causing pain to animals is a Torah prohibition, and that the ways of the Torah are ways of pleasantness...” Yet on the face of it, on the basis of what was written above, one might say that he does not necessarily hold that this is a Torah prohibition, for one is permitted to do so for purposes of livelihood, and in the lands of Ashkenaz [i.e., medieval Franco -Germany] it was customary to do so for many centuries, i.e., to force-feed geese.

Or one might argue that he [i.e., Rav Yosef] specifically held that the prohibition against cruelty to animals is from the Torah, and what they were accustomed to doing then was done out of necessity, because they didn’t have any other way of earning a living. Also, it was not done in as cruel a manner as is done today, wherein by means of machines and pipes the goose is made several times larger [i.e., than is natural], which was not the case in the time of the Sages (cf. the mishnah at the end of *Shabbat* 158b), or in the lands of Ashkenaz then. Moreover, today it is possible to earn a living without causing all of the above pain to animals, and this is what was written by our master, Rav [Yosef] *shlita* in *Yabi’a Omer*: “for the sake of profit”—that is, not in order to earn a livelihood per se, but to become rich, and this is surely prohibited and an act of cruelty. And reason from this and apply it to our case: that the establishing of the Hippodrome Farm, which was approved by the government, is intended “to increase

the income from the horses,” and not really for purposes of livelihood, but in order to make those who are already rich even richer.

[And see further Responsum *Yabi'a Omer* (Vol. 10, *Yoreh Deah*, in his notes on *Sefer Rav Pa'alim*, §1): that it is proper to be concerned, due to the prohibition against causing pain to animals, not to cut a horn that interferes with *shehitah*, even if there is a certain concern of *haladah* [i.e., slaughtering by stabbing the animal's throat rather than slicing across the throat]. And cf. *Teshuvot Minhag Yitzhak* (VI.145) and *Teshuvot Iggerot Moshe* (by R. Moshe Feinstein; Pt. IV, *Even Haezer*, §92) and *Teshuvot Tzitz Eliezer* (by Rav Eliezer Waldenburg; XIV.68).

In conclusion: it seems self-evident that one ought to instruct every God-fearing person to hasten to gather his livestock and his horses at home [an allusion to Exod 9:20] and not to participate in horse-races—neither in establishing them, nor by watching them: because of the pain to animals caused thereby, because it is “a dwelling place of scoffers,” and because it is “playing with dice” (i.e. gambling).

And may it be the will of God, may He be blessed, that He quickly close these breaches among His people Israel, and that the world be filled with knowledge of God with the coming of the Righteous Redeemer speedily in our days.

I thank the honor of his Torah [i.e., Rav Amar], who has given me the privilege of examining and studying this halakhah, which has a double reward from Heaven, and may it be His will that the radiance and honor of our teacher not depart from us, and that he be blessed with health of body and supernal light, and merit to increase Torah and to make it splendid, to increase the honor of Heaven with his holy words, to see blessing in all the works of his hands, and may a spirit of holiness rest upon all his descendents. Amen.

With the respect of Torah,

(Signed) David Bardugo