

## *The Kashrut of Kingklip: Its Turbulent History and Who Decides*

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### Introduction

A kashrut question that had engaged the halakhik community from time to time through the twentieth century has once again arisen during the last decade. A species of fish known in various places as kingklip has recently appeared in Israel and generated a turbulent controversy regarding its permissibility. This article will present the history of its status and examine the issues and the arguments involved in the debate. We will not arrive at a ruling; that has been done by many competent *poskim*. We will discuss the halakhik questions, the rationales, and the different analyses that have been employed during the brief 100-year history and thereby illustrate the halakhik process in an area of Jewish law.

### What is a kingklip?

Kingklip (*Genypterus capensis*, *Genypterus blacodes*, *Genypterus chilensis* and others) is a fish that lives near the ocean floor in the southern hemisphere at depths of 50–500 meters. It can grow to between 80 and 200 centimeters, weigh 15–25 kg, and live for up to 30 years. It is a nocturnal, carnivorous feeder that is found in the wa-

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ters of the southern hemisphere and considered a seafood delicacy. Because no Jewish community of any magnitude existed in the Southern hemisphere prior to the previous 100 years, the fish was unknown to Jews.

### **Determining the kashrut of a fish**

It would seem trivial to ascertain whether a particular fish is kosher, leaving nothing over for the debates that rabbis and the Jewish community so dearly love. The qualifying criteria, stated twice in the Torah (Leviticus 11:9-10 and Deuteronomy 14:9-10), are clear and straightforward: Any fish with fins (*snafir*) and scales (*kaskeset*) is kosher.

The Talmud further simplified matters: while the Torah gave two, apparently independent, physical indicia, the Mishnah states (Niddah 6:9) and the halakhah is codified (Rambam, *Hilkhot Ma'akhalot Assurot* 1:24; *Shulhan Arukh*, YD, 83:3) that all fish with scales also have fins, although not all fish that have fins necessarily have scales. Considered an ancient tradition (Tosafot, *Hullin* 66b, s.v. *kol*), this principle may be relied upon to determine the kashrut of a fish. Thus, one who finds a piece of fish with the skin intact and with scales may classify it as kosher, even without knowing the type of fish. Therefore, in practice only one sign is required for declaring a fish kosher—the presence of scales.

Scales, the crux of the halakhic requirement, need to be precisely defined. How an ichthyologist defines a scale is not necessarily the same as what halakhah requires. Most fish have some sort of scale covering, although some species such as the catfish (family Ictaluridae) and clingfish (family Gobiesocidae) have none. This coating can assume varied forms, and scientists recognize numerous subcategories of scales, yet not all of them define a fish as kosher. For example, sharks and rays have a “primitive” type of scale and most of these species are definitely not kosher. These so-called scales are dramatically different from the scales of a kosher species, like carp or bass. They consist of a basal plate buried in the skin with a raised exposed portion. The individual scale is similar to a tooth, with which these scales are homologous, having a pulp cavity and tubules leading into the dentine, and they provide hydrodynamic efficiency. That is as opposed to the scales found on most kosher

fish, which consist of a surface bony layer and a deeper fibrous layer. They are relatively thin and usually lie in pockets of the dermis.

It is therefore necessary to ask: What is the halakhic definition of a scale? In discussing scales, the Mishnah (*Hullin* 3:7) defines *kaskeset* as the pieces affixed to the body of the fish. Based on the biblical usage of the same word to describe Goliath's armor (1 Shmuel 17:5), the Gemara (*Hullin* 66b) deduces that they are a type of "garment." Ramban (*Vayikra* 11:9), writing centuries later, explains that for a scale to be halakhically acceptable, it must be possible to peel it off the skin. He was the first to state explicitly that not everything attached to the skin of a fish is a halakhic scale. He explains that when the Talmud states that scales are attached to the body of the fish, it does not mean permanently attached, it is merely contrasting scales that are stationary with fins that move. Ramban states, however, that scales by definition must be removable. Ramban, realizing that this point may not be obvious, elaborates further by pointing out that when the Tosefta and Talmud state that scales are like garments, this means that they are removable. Furthermore, Ramban observes that when Onkelos on Leviticus 11:9-10 translates *kaskeset* as *kalfin* it means that the scales are like the *kliḥa* (bark) of a tree and (the peel) of a fruit.

Surprisingly, this crucial requirement is not found in the *Tur*, and while the *Beit Yosef* mentioned it in his commentary to the *Tur*, he neglected to include it in the *Shulḥan Arukh*. Likewise Rambam does not include it in *Hilkhot Ma'achalot Assurot* 1:24, although the *Maggid Mishneh*, commenting on Rambam (ibid, s.v. *u-ve-dagim*), includes this peelability requirement and heroically attempts to find an allusion to it in the language of Rambam. The Gaon of Vilna (on *Yoreh De'ah* 83:1) agrees that this is an ancient requirement and finds its source in the Tosefta (*Hullin*, 3) that defines *kaskeset* as a garment. This rule is finally codified by Rama (*YD*, 83:1) and is then universally accepted.

Because it is not always clear from a visual inspection whether the scales will meet this requirement, it is often necessary to remove them in order to determine whether the fish is kosher.

There are two further rules concerning fish scales, of which one is important in the kingklip debate. They deal with when in its life cycle a kosher fish must have scales. The first rule is that a fish that

has scales in the water but sheds them upon being removed from the water meets the requirement of having scales and is kosher. The second permits a fish that does not have scales in its juvenile stage but grows them later in life. The Gemara (*Avodah Zarah* 39a) gives several examples of fish that meet the first rule, and it seems to have been frequently applied.

Fish scales appear in all shapes and sizes and can be thin or thick, large or small, can cover almost all of the fish's body or only parts of it, and all of these suffice for kashrut.

### **Early Discussion of Kingklip's Kashrut**

South African Chief Rabbi Louis I. Rabinowitz, PhD (b. Scotland, 1906; d. Jerusalem 1984; Chief Rabbi of South Africa 1945–1961) wrote (*Sabbath Light*, 1958, p. 109) that when he arrived in South Africa (1945) it was “universally accepted by the Jewish community that kingklip was not a kosher fish.” However, he and “four learned rabbis” inspected it, found scales and declared it kosher, a decision that was initially met with skepticism and even some protest. Unfortunately there is more hidden than is revealed in what Rabbi Rabinowitz wrote. He does not state why it was treated as non-kosher or who had made that original determination. More important, he does not give the names of the other four rabbis, nor does he state in what year the inspection and decision took place. He does state, however, that they inspected the fish and found scales and that thenceforth it was treated as kosher.

In those early years of South African Jewry, the question arose frequently. On May 26<sup>th</sup>, 1950 the Bloemfontein Hebrew Congregation sent a letter to the Beth Din in Johannesburg that stated: “I have been requested by our Minister Rev. S. Coleman to inquire whether the King Clip Fish is kosher.” The June 13<sup>th</sup> reply stated succinctly, “In reply to your query I wish to inform you that King Clip Fish is kosher.” The Beit Din reaffirmed that position in a November 22, 1950 letter to Kalk Bay Fisheries (of Johannesburg) in which they stated, “With reference to your query regarding the fish “King Klip” I wish to advise you, that after the Rabbis of the Beth-Din have visited your establishment it was clearly ascertained that the “King Klip” is a kosher fish.” This is significant in that it demonstrates vigilance on the part of the rabbis in that they paid a

visit to the plant to re-examine the fish, and it makes clear that after examining it they (again) had no doubts about its status.

This decision was not to go unchallenged, and it seems kingklip is destined to be surrounded by controversy. In the *Zionist Record* of January 30, 1953, then well-known columnist Karl Lemeer commented on the fact that a recent column in an Afrikaner paper quoted the Beth Din ruling permitting kingklip. He then opined that it was not kosher. In the next issue of the paper, Feb 6 1953, Rabbi Dr. Michel Kossowsky wrote on behalf of the Beth Din: “Anyhow, he may rest assured that this fish is indeed kosher... For a long time many people thought that Kingklip had no scales and consequently was not kosher. The Beth-Din have, however, satisfied themselves on examination that it did have scales and was, therefore, perfectly kosher.”

It did not end there. The Cape Town Beth Din read the *Zionist Record* and wasted no time in responding. On February 13 they sent a letter to Reverend I. Aloy of the Johannesburg Beth Din to please advise Rabbi Kossowsky that there is a variety of “kingklip” without scales, and that they should therefore qualify their position. It seems that many, quite different fish go by the name “kingklip,” and based on page 364 of Smith’s book (see below) they were probably referring to *Otophidium Smithi*. In response there is a note in the official Bet Din diary from February 26, 1953 in Rabbi Michel Kossowsky’s handwriting that he examined kingklip, it unquestionably has scales, and it is kosher. On March 24, 1953 the Johannesburg Beth Din responded to Cape Town that after further inquiry they were satisfied that the one species sold in South Africa has scales and is kosher. On April 10, 1953 the Cape Town Beit Din responded with a highly cynical letter that continued to insist that the Johannesburg Beth Din at least qualify their permissive statement. They had cited a textbook that describes a kingklip without scales and were upset with the response from Johannesburg. They wrote:

The stress you lay on the fact that only one single specimen has been found, we find unconvincing. Professor Smith does not, and could not say that only one specimen has been found. He merely indicates that he has examined one fish and would like to be shown more examples of this type. The very fact

that he writes ‘more wanted’ implies that more exist. After all the fish must have had a father and mother, unless you regard this as a case of initial creation, which we consider would be theologically incorrect. This already makes three. We also understand that as a rule a piscine family does not go in for an only child; it must be taken for granted therefore, that in addition to having parents, the ‘museum piece’ also had brothers and sisters. Even if we believed, without any evidence, that the specimen seen by Professor Smith was an orphan, we have no right to conclude that he was a sole survivor.

We have been unable to determine whether the Johannesburg Beit Din responded to that letter. Most of the early disputes focused on whether the scales fell off when the fish was removed from the water. Ultimately it was resolved that they do persist after removal from the water and in recent years, particularly during the last decade, those who prohibit, do so based on the character of the scales.

The European born and educated (Pressburg) Rabbi Yaakov Salzer moved to Israel in 1939. In 1953 he came to South Africa to be the rav of its only *hareide* kehilla, Adass Yeshurun. On Tzom Gedaliah 5718 (1957) he wrote himself a note that in a telephone conversation Rav Michel Kossowsky *Sbli”ta* told him that his father *ztz”l* had examined kingklip together with Rav Shrock and had permitted it. Furthermore, Rav Michel Kossowsky stated that two years earlier the question had again arisen and he had examined it and found many scales. However, Rav Zimmerman told Rav Salzer that the Cape Town Beit Din did not permit it and he personally did not eat it. During the recent controversy there were claims that Rav Salzer, together with Rav Moshe Sternbuch and Rav Aharon Pfeuffer, had issued a declaration forbidding kingklip. No such declaration was ever made.

This note of Rav Salzer’s is very important because it provides evidence that Rav Michel Kossowsky’s father, the universally respected Rabbi Yitzchak Kossowsky (brother-in-law of the famed Rav Chaim Ozer Grodzinski), who had arrived in South Africa in 1932 and was *niftar* in 1951, had permitted kingklip. The statement that it was not eaten in Cape Town is not a surprise and does not say anything about the status of the fish because, as seen above, the Cape Town Beit Din was hesitant to permit it not because it lacked

scales, but rather for fear of confusion with a second, non-kosher species.

Corroborating evidence was offered by Rav Yekutiel Shalpid of East London. On August 30, 2005 he wrote a letter in which he testified that in late 1970, when he was rabbi in the once thriving ostrich-feather-supported Jewish community of Oudtshoorn, he traveled to Johannesburg to discuss kingklip with Rabbi Yaakov Salzer. Rav Salzer told him that there was no question about the kashrut of kingklip and he could eat it based on the ruling of the Beit Din. Nonetheless, he himself did not eat it because it was not known in Eastern Europe, where he came from. Furthermore, Rav Shalpid reported that he discussed it in 1971 in Yerushalayim with Rabbi Levy Yitzchak (Louis) Rabinowitz, who told him that kingklip is kosher and that his predecessor, Rabbi Yitzchak Kossowsky, had similarly ruled. Because of the above, Rav Shalpid's family began eating kingklip in late 1971.

A similar, briefer letter of testimony was written and signed by Naftali Braude of Jerusalem on 19 Av 5765 (2005). He stated that when he lived in Johannesburg in about 1970, Rabbi Yaakov Salzer had told him that kingklip was a kosher fish and that he could eat it.

The question seems to have left the confines of South Africa for the first time in the summer of 1972 when Rav Shimon Efrati, then head of the (Israeli) national Kashrut authority, wrote an article about kingklip. Understanding that the question had probably been investigated in South Africa, he ended his analysis with a request for the opinion of Rabbi Yerachmiel (Eugene Jacob) Dushinsky of Cape Town and then concluded that there is no question that kingklip is a kosher fish.

The subject would not go away and came up again with the new generation of rabbis in Johannesburg in the 1990s. As part of their investigation, the Johannesburg Beit Din consulted a letter they had received from Ofer Gon of the Institute of Ichthyology that included skin and scales of a kingklip and an explanation that in kingklip the scales are nearly invisible until they are removed. Rabbi Moshe Kurtstag, an internationally recognized *talmid hakham* and the long-time head of the Johannesburg Beit Din (and son-in-law of Rav Aloy) requested of Rabbi Yossi Salzer (son of Rabbi Yaakov Salzer) to examine the issue in a methodical way. Rabbi Salzer went to

Cape Town and met with Dr. David Japp, who had written his Ph.D. dissertation on kingklip, and learned from him how to find and remove kingklip scales. Rav Salzer reported back to a meeting at the Johannesburg Beit Din in the summer of 1999 (July 1; 17 Tammuz 5759) at which a who's-who of Johannesburg rabbis attended. Rabbi Yossi Salzer demonstrated easy removal of readily visible scales from four specimens, and explained that because the scales are small and thin, people often do not find them. Based on the evidence, Rabbi Kurtstag stated that kingklip is kosher and that such had always been the position of the Beit Din. At that meeting it was accepted by all that kingklip is kosher *l'mehadrin*.

In May 2001, Rabbi Desmond Maizels, head of kashrut for the Cape Town Beit Din, issued a three-page document stating that kingklip, Pink Ling (of Australia) and three types of Congrio (South America) are basically the same fish (all being various species in the genus *Genypterus*) and are all kosher. He described in detail how to find the scales, and explained that questions had arisen because of the difficulty the layman had in finding the scales, which are thin and small and covered with a mucous layer.

Over the years there were two non-South Africans who ruled on Kingklip and then, it seems, changed their minds. The first is Dr. James W. Atz, curator emeritus of American Museum of Natural History, who compiled a list of kosher and non-kosher sea food for the OU. This list was later published by ArtScroll in Rabbi Yacov Lipschutz, *Kashrut*, 1988. Under the Non-kosher Fish section one finds kingklip (*Genypterus capensis*). Being a mere list, it contains no explanations for why it designates certain items as kosher and some as non-kosher. For many years, this OU/ArtScroll list was taken by many to be the authoritative list. The world-class ichthyologist Atz is not a *posek*; he is not even Jewish. Furthermore there was no way he could personally examine each of the many fish on the list, and thus he often "*paskined*" based on the category the fish was in. He told me (AZZ) over the phone on December 22, 2005 that he erred and that kingklip is, in his opinion, a kosher fish and that he had written so in a letter to Rabbi Maizels on January 8, 2001.

The second is probably the world expert on kosher species, the retired Av Beit Din of Basel, Switzerland, Rabbi Israel Meir Levinger, DVM. In his classic on Kashrut, *Mazon Kasher min ha-*



*Hai*, he lists kingklip as non-kosher (that is, in the 1985 3<sup>rd</sup> edition, p. 126 #42 and p. 142—in the 1978 ed., p. 151 he lists it as kosher based on Rav Efrati) stating that its scales are small and they are halakhically not acceptable. Strangely, although Rabbi Levinger describes the scales as unacceptable, he nowhere explains what about them is not acceptable. However, he too seems to have later changed his mind. In 1998-1999 a request was made to import kingklip to Israel. In response, the Chief Rabbinate turned to Rav Levinger, who realized that when it comes to the practical question it is wise to turn to the place where the fish exists. He thus turned to Rav Kurtstag of Johannesburg, who told him that it is kosher. Rav Levinger informed the chief rabbinate and, based on that report, Chief Rabbi Bakshi-Daron declared it kosher on 17 Tammuz 5760.

### **The debate of the last decade**

In 2004 the question of kingklip made aliyah. Someone decided to once again raise the issue and this time to involve well-known Israeli rabbis. Their responses, and the stories behind them, are quite interesting (and disturbing).

Rav Moishe Sternbuch, currently with the Badatz Eidah Hareida of Yerushalayim but formerly of Johannesburg, wrote on 14 Tevet 5765 not to eat kingklip because its scales are under the skin, i.e., under a membrane. He does not report that he ever examined it personally, but rather is relying on a pamphlet on the subject that he was shown. He then besmirches the level of observance of the entire Johannesburg community except for his former congregation. Finally, he claims that Rav Yaakov Salzer instructed people not to eat it. Indeed, in the course of this recent controversy, many of those who prohibit it claim that Rabbi Yaakov Salzer prohibited it. In a long personal conversation on 5 Tevet 5766 Rabbi Yossi Salzer denied to me (AZZ) that his father had ever prohibited it. He confirmed that his father did not eat kingklip, and that he did not recommend to members of his Kehilla that they eat it. However, he is almost certain that his father was never shown the scales on a kingklip, and he suggested that out of lack of more information his father could not say it was kosher, but he would tell some people they could rely on the Beit Din. And Rabbi Yossi Salzer insists, to

me and to anyone who asks, that it is kosher. Indeed, throughout the controversy it was he who personally made sure to explain to the respected rabbis how to find the scales.

It is also important to understand what is behind Rav Sternbuch's position. On February 20, 2004 the *haredi* paper *Sha'ah Tovah* reported that Rav Sternbuch had explained that because of the abundance of fish that are kosher according to all opinions, one should be strict regarding kingklip and require a *mesorah* based on the opinion of the *Arukh l-Ner*. It is not that he found it non-kosher, but rather that he preferred to simply avoid the issue because there are other options. It was not a *psak* or decision, but a conscious avoidance of a decision in favor of a strict position.

A letter was written in short spurts by the famed Bnei Brak *posek* Rav Nissim Karelitz. On one piece of his stationery all of the following appears: On 23 Iyar 5764 (May 14 2004) he wrote that he examined kingklip and could not find scales, and that it should therefore be treated as a non-kosher fish. Someone showed him the fish but did not show him how to find the difficult-to-find scales, and he rules the only way he could if there are no scales—it is non-kosher. On 13 Sivan 5764 (June 2 2004) he wrote that after additional clarification, scales were found and it is kosher. In other words, someone rushed up from South Africa, showed him how to find the scales and he declared it acceptable. On 21 Shvat 5765 (January 31 2005) he wrote that after further clarification and analysis one should refrain from eating it (although he stopped short of saying it was prohibited). He later added that utensils used with kingklip may be used after a 24-hour waiting period (without kashering them).

What was going on here? The person who brought the kingklip on aliyah showed it to Rav Karelitz without too much explanation and indeed, he did not see the difficult-to-find scales and thus prohibited it. Clearly this person was interested in receiving a prohibiting letter from Rav Karelitz. Rav Salzer then flew in, showed Rav Karelitz the scales, and he permitted it. Then what changed? He was shown the letter from Rav Sternbuch and he did not want to argue!

At this point (February 11, 2005, p. 16) the Jewish Press (of NY) reported that Rabbi Mayer Bransdorfer of Yerushalayim had

ruled kingklip as non-kosher. The stated reason was that its scales could not be seen without the aid of a magnifying glass.

The fish was also brought to Rav Shmuel Vosner, who wrote a letter about it on Shushan Purim Katan 5765. He said that there is no reason to prohibit it because a scale of any thickness is acceptable, and thus kingklip scales are sufficient to declare it kosher. However, so as not to give the appearance of two Torahs, he suggests that because there are people who prohibit it, even though there is no reason for their opinion, others should refrain from eating it until further clarification!

Rav Yosef Shalom Elyashiv has also been quoted in this controversy, and rumors started circulating that he had prohibited it. In response to these rumors, in February 2005 (Adar 5765) the Beth Din of Johannesburg responded to this “*psak*” of Rav Elyashiv. They issued a public statement that said (emphasis added by me):

The Beth Din informs the Jewish public that there is a *malicious rumor* circulating in the community that the famous gaon, Harav Eliashiv *shlita*, has issued a pronouncement declaring that the fish we know as “kingklip” is not kosher. In light of this, the Beth Din finds it necessary to inform the community that there is no truth whatsoever to this rumor *whose only aim is to discredit the Beth Din*. Rabbi Moshe Kurtstag, the Rosh Beth Din, had a personal interview with Rav Eliashiv during his recent visit to Israel, on Tuesday 25<sup>th</sup> January 2005 (Tu B’Shevat) and informed him that there is a tradition in our community, based on the ruling of Rabbi Yitzchak Kossowsky of blessed memory, the brother-in-law of the famous Rav Chaim Ozer Grodinski, of blessed memory, that Kingklip is a kosher fish. The response of Rav Eliashiv was that if there is such a tradition in the community, then the fish is kosher. In addition, Rabbi Yossi Salzer brought some Kingklip to the famous Posek Rav Shmuel Vosner of Bnei Brak, who, after careful examination of all the features and halachik considerations, ruled likewise that it is definitely kosher. However, it is important to draw attention to the fact that there are different varieties of Kingklip, and the Beth Din takes responsibility for the kashrut only of the Kingklip sold in establishments under its supervision.

In summary, the Beth Din stated clearly that they believe kingklip is kosher; Rav Eliashiv stated as such directly to the av Beth Din, and they believe that there was a deliberate attempt taking place to besmirch the Beth Din. The Beit Din maintained this position when in a letter from the *av beit din* to an overseas *posek* on 25 Sivan 5764 he stated that the people looking to prohibit kingklip had expressed statements that made it clear that this was *not a mahloket l'shem shamayim*.

Those looking to prohibit kingklip (and besmirch the Beth Din?) succeeded in responding to this declaration in the form of a 5-page cover story in the Hebrew *Yated Ne'eman* on 10 Sivan 5765 entitled "The story of the non-kosher South African fish." In the introduction it states that Rav Elyashiv had given a clear and definitive *psak* prohibiting kingklip, and the article includes a copy of a letter by Rabbi Moshe Mordechai Karp from 7 Iyar 5765 that Rav Elyashiv had prohibited the fish and that he wants that fact publicized. Rabbi Karp had issued a similar letter two months earlier on 11 Adar II 5765. The article was biased and contained errors and misinformation. It seriously damaged the status of the newspaper in the South African community, where the gross negligence in reporting was readily apparent.

The Beit Din letter stated what Rav Elyashiv had personally told them, that kingklip is permitted, and Rabbi Karp then reported that Rav Elyashiv wanted just the opposite publicized. If that wasn't enough to make it difficult to know Rav Eliashiv's true opinion, it only got murkier. Subsequently, another member of the Beth Din approached Rav Elyashiv, and on 15 Tammuz 5765 wrote a letter in which he stated that Rav Eliashiv's position was that kingklip should not be eaten and should be labeled as "kosher not mehadrin." Note that he did NOT say that the fish was non-kosher, but rather not *mehadrin*. The expression "kosher not mehadrin" regarding fish is quite unusual. This letter was co-signed by three others who were present at that meeting, including Rav Karp. This strange letter was followed six weeks later, on Rosh Hodesh Elul 5765, by a letter signed by the leaders of all of the "haredai" Ashkenazi communities in South Africa. In it they all acknowledge that six years previously, they, all *poskim* in their own

right, deemed kingklip kosher and “mehadrin,” but will now bow to R. Elyashiv’s psak and treat it as kosher but non-mehadrin.

### **Australia**

It was not only the local *poskim* in South Africa who had permitted it and were now befuddled. Local kashrut experts in Australia had reached the same conclusion and were now faced with a quandary. The variety sold there is known as “Ling” or “Pink Ling” and scientifically as *Genypterus blacodes*. On August 4, 2004 Moshe Friedman wrote that in his fish company, Yumi’s, in Melbourne they sold Pink Ling under the supervision of Rabbi Beck who had inspected it numerous times. In a public letter on 17 Tevet 5765 (12/29/04) Rabbi Moshe Gutnick of Sydney testified that 25 years earlier, pink link was inspected and declared kosher, and was eaten as such ever since. However, because the question was raised anew six months prior, the kashrut experts in Melbourne and Sydney revisited the question. The fish was inspected by Rabbi Moshe Gutnick of Sydney, his brother Rabbi Mordechai Gutnick of Melbourne, and Rabbi Avraham Tzvi Beck of the Melbourne *haredi* community. After inspecting it again, Rabbi Mordechai Gutnick was torn between his personal observations and what he read in books, and was unsure whether to accept Rabbi Levinger’s and Dr. Atz’s [written] statements or accept the facts he and Rav Beck had seen that there are kosher scales on this fish. The two Rabbis Gutnick together with Rabbi Beck, decided unanimously and unquestionably that it was kosher and would stay on the Australia approved list. However, here too strange decisions followed. Once the unclear decisions of Rav Elyashiv and Rav Wosner came to their attention, they decided to no longer approve selling it in kosher stores. But, they decided not to throw out the old stock but rather to sell out the stock in the stores. Clearly, they did not believe it to be truly non-kosher.

The other southern hemisphere region to debate the issue was South America. There the issue was debated and most local rabbis, relying on Rabbi Yosef Feigelstock of Argentina, prohibited it. He argued that the scales shown to him on the fish are not scales. However, some remember that Rabbi Beck, now of Australia, when he was in Montevideo, Uruguay had permitted it in the 1980s. Rabbi Maizels, a South African rabbi who is a kingklip ex-

pert, visited Chile and confirmed that the South African and South American fish are the same and thus he believes the South American fish to be kosher. So too Rabbi Moshe Heinemann of Star-K visited Chile, inspected the fish, and confirmed to me (AZZ; telephone conversation February 6 2006) that it is a kosher fish. Dr. James Atz in a letter to Rabbi Maizels (June 6, 2001) stated that after examining several Chilean congrio (*Genypterus chilensis*) he is convinced that “there is no question that this species is kosher.”

### **Facts about kingklips’ scales:**

According to the FAO website (<http://www.fao.org/figis/servlet/species?fid=3257>), kingklip has “fine cycloid scales on body and posterior part of head.” There is no question that on first inspection kingklip appears smooth. However, after being shown how to find scales, it is relatively easy to find them. They are readily removable without damaging the underlying skin, and it is clear that they are separate entities and scales and not pieces of skin that are scaling off. The scales are of normal appearance, although they are unusually thin and not rigid. Rabbi Yossi Salzer, whose father is said to have prohibited it, has several times demonstrated for the Beit Din and to us how to find these thin scales. And thin would appear not to be a disqualification. The *Shulhan Arukh* (YD 83:2) explicitly rules that there are some fish who have very thin scales such that they are not noticeable, but when the fish is rubbed with a cloth or placed in water the scales become visible and that such fish are permitted. Dr. Ofer Gon, an Israeli–South African fish expert, wrote in an email to Rabbi Saltzer on March 9, 2005 that “Other South African kosher fishes with soft scales are anchovies and most sardines (I checked the east coast roundherring and the cape anchovy and both have paper-thin and very soft scales) and hake (*merluccius capensis*). Species of hake have been marketed for years in Israel under the commercial name bakala.” The next day he wrote, “Looking at the various fishes yesterday, the scales of a 8-10 cm long east coast roundherring (a sardine) are about as flimsy as those of the kingklip and, I believe, it is a kosher fish.” Rabbi Saltzer, who has also examined the scales, feels that they are almost equally paper-thin, but not quite as thin as the highly atypical kingklip scales.

In general, scales are lined up overlapping one another so that when running one's hands over the fish from front to back it will feel smooth, but when running them from back to front the scales will be felt, and might even be uprooted. This may even be a halakhic requirement according to Tosafot (*Hullin* 23a) and the Hasam Sofer (*Niddah* 51). While kingklip scales are thin, they certainly fulfill this requirement.

It has been suggested that the kingklip scales are not halakhic scales because they are covered by a layer of mucous/skin. However, the *Darkei Tshuva* (YD 83:10) cites numerous authorities who hold that if after the scales are peeled there remains a complete, intact layer of skin it is irrelevant that there was originally an additional upper layer that was first removed. Others have suggested that based on *Avodah Zarah* 39a, scales must be “protective armor” and the scales of the kingklip are so thin they cannot serve as protection. Despite that gemara, halakhah permits even a fish with one scale and even very thin scales, both cases of scales that are clearly not protective.

One of the most unusual claims made regarding kingklip is that it is eel-like and therefore not a fish and not permitted based on scales. Dave Japp of the Fisheries and Oceanographic Services in Cape Town wrote a letter regarding this assertion in which he said that “A kingklip definitely does not look like an eel even if you look at the animal as a whole. ... it is like comparing a train with a 40-ton truck towing trailers.” The head, mouth, body, and fins, of eel and kingklip are all shaped differently. Eel lack a swim bladder while kingklip has one. An eel undulates through the water; kingklip move like a bony fish using all its fins for motion. Indeed, eel are classified as the order Anguilliformes, while kingklip is in the order Ophidiiformes.

Some of these claims were raised by well-known *poskim* from the US, where the question was also raised by the same individual. When some of these *poskim* were shown the fish and the scales, some by us here in Israel, they immediately conceded they had been misled and changed their opinion.

### Lessons to be learned

The controversy over kingklip kashrut has reached the point that a South African fish expert, Dr. P.C. Heemstra, emailed me (AZZ; October 2005) that he was so dismayed with the rabbinic approach towards examining kingklip kashrut that, he cynically wrote, “I find the arguments about kosher/unkosher kingklip exceedingly tiresome. ... I hope kingklip is declared unkosher as it is getting rare now, and the fewer people that are eating it the better.”

The earliest claim that it is permitted is traced back to the universally accepted gaon Rav Yitzchak Kossowsky and his son R. Michel. Since that time no South African kashrut agency or reputable rav has ever prohibited it, and until today both the Johannesburg and Cape Town Batei Din treat it as kosher. Kingklip has macroscopic scales that are not shed upon landing. They are there for anyone who looks for them to see. While they are thinner and less rigid than most scales, in structure they are similar to other cycloid scales. All major kashrut organizations in their native lands (South Africa and Australia) have accepted it as kosher. It was stated very clearly in an email from Rabbi Yossi Salzer to the OU on Feb 12, 2004, where he wrote: “Cuskeels or not—the Torah says: with fins and scales it’s Kosher. Kingklip has fins & scales. It’s Kosher!”

Despite the above, some of the most prominent *poskim* of our time have questioned its kosher status or have advised against eating it. The reasons for not declaring it kosher have been varied and creative: thin scales; covered scales; it is eel-like; its scales are eel-like; the scales do not catch the finger; the scales are not protective; the fish is a bottom dweller.

Refusing to be intimidated, Rav Moshe Kurtstag, an internationally recognized *talmid hakham*, issued a responsum on kingklip and responded to every point raised. He determined that there is no question that it is a kosher fish. In addition, following the bulk of the controversy and fully aware of the supposed position of the Israeli rabbinic heavy weights, all of the major figures in South Africa reiterated that they had previously personally examined the fish and declared it to be kosher and *mehadrin*.

The standard operating procedure for all of Jewish history has always been to first go to a local *posek*. Only in cases of doubt or conflict did the local rabbinic authorities, not the questioner, turn



elsewhere. And the recognized world experts would usually support the authority of local rabbis. In the case of kingklip the local *poskim* were fully competent and confident in their decision. It is unclear why there was a need to turn to Israel or the US with this question.

An email from one of the South African rabbis (not to me) sums up the feeling of the South African rabbis:

I'm sorry to say, but the Rabbis were given TOTALLY INCORRECT information about the fish by some "frum" trouble-maker in Johannesburg who wants to discredit the local Beth Din... Why these Gedolim didn't first check with us who know the fish, before giving a *p'sak*, I don't know...

Is kingklip kosher? All of the local rabbis in South Africa and Australia said an unequivocal "yes." Should the question have remained a Southern hemisphere question? Most definitely. It is difficult to know why the question was brought to Israel. The Beit Din itself said it was someone looking to discredit them. An individual South African rabbi said it was a "trouble maker." We have no way of knowing or judging, and it is irrelevant—it should have remained a local question. ❧