



Center for Jewish Ethics

Reexamining *Kashrut*:
Taking into Consideration the Treatment of an
Animal Prior to Slaughter

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Introduction:

In order for an animal to be slaughtered in a *kosher* manner, there are particular procedures which must take place in order to cause minimal pain to the animal in its death. During *shechita* (ritual slaughter) the *shochet* (the one performing *shechita*) must make precise incisions into the esophagus and trachea of the animal without pressing the knife, tearing the tissue with a snag in the knife, piercing the animal, pausing, or having the entire knife be covered by the animal's throat at any time.¹ These rules are put in place in order to minimize suffering of the animal during its slaughter, and if any of the slaughter is done improperly to cause avoidable pain to the animal, its meat is not considered *kosher*.

Jewish law, by means of the *Torah* and *Talmud*, put much emphasis on the treatment of animals in life and during their death. However, the laws of *kashrut* only focus on the treatment of the animal in its death and in the manner in which the meat is handled following death. This paper will examine the laws of *tza'ar ba'alei hayyim*, the infliction of unnecessary pain on animals, and whether laws of *kashrut* should be amended to take these laws into consideration when deeming an animal's meat to be *kosher*. Though this argument applies to the treatment of all forms of livestock, including chickens, sheep and cows, the primary example for focus will be the treatment of calves in the process of making veal.

Veal:

Prior to laying out what the laws are for *tza'ar ba'alei hayyim*, the process for making veal should be addressed in order for the reader to compare the process to Scripture. Within

¹ See Moses Maimonides and Philip Birnbaum Mishna Torah, page 134.

hours of birth, the calf is taken from its mother and put into an individual wooden crate that is 60 x 28 inches. These crates are too small for the animal to be able to stand or turn around, and they are denied bedding and solid food. The calves are fed two times a day through a tube with liquids, but are denied sunlight and iron, causing them to become severely anemic (in fact, the crates are wooden for fear that the calves would lick iron crates to increase their iron levels), and thus having whiter meat. The calf is unable to have normal eating behaviors and cannot perform normal rumination. They are kept in these crates for the first fourteen to eighteen weeks of life and are then slaughtered.² During the summer, many calves overheat and die in these crates, while many freeze to death during the wintertime. At the time of slaughter, the calf is typically not strong enough to stand on its own. Rabbi Moshe Feinstein (1895-1986), a world-renowned expert on *Halakha* (Jewish law), did an investigation of his own on the matter, in which he interviewed *shochets* about the calves raised for veal. The more strict *shochets* told him that only 15% of calves that came to them for slaughter were healthy enough to be deemed *kosher*, while less strict *shochets* reported that 45% of the calves that were brought to them were healthy enough to be considered *kosher*.³ Thus a majority of the calves raised in the above fashion were not used for kosher meat, as they could not be slaughtered by a *shochet*.

The conditions in which the calves are kept have a profound impact on their psychological development. Normally, a calf spends much time nursing and being licked by its mother, as well as playing with other calves. Calves that are kept in typical conditions for raising veal often have psychological disorders such as frustration, food refusals, stress, boredom, isolation and irregular coping behaviors. Cows whose newborn calves are taken from them often experience distress as well. As a result, 87% of calves prepared for veal have stomach

² See http://www.responsafortoday.com/moment/3_2.htm

³ See http://www.responsafortoday.com/moment/3_2.htm

ulcerations, and the majority have internal scarring on their stomach tissues as a result of the stress, therefore causing damage to particular parts of the meat.⁴

Though, as a result of European bans on the above practices of veal-raising, more humane methods are being introduced for the raising of veal, the calf is still generally taken away from its mother by three days of age. However, some farmers now have individual stalls for calves where they can stand up and turn around, as opposed to using the crates.⁵

Torah and Talmud on the Eating of Animals:

Throughout the *Torah*, there are numerous laws pertaining to the treatment of animals. In fact, there are actually more laws regarding animals than there are regarding the Sabbath.⁶ One of the first comes in Genesis 9:3-6a. Prior to the Great Flood, humans had been prohibited from eating animals; however, they are given permission following the flood. “Every creature that lives shall be yours to eat; as with the green grasses, I give you all these. You must not however, eat flesh with its life-blood in it. But for your own life-blood I will require a reckoning: I will require it of every beast; of man, too, will I require a human life, of every man for that of his fellow man! Whoever sheds the blood of man, by man shall his blood be shed (Genesis 9:3-6) In verse three, it is clear that animals (though it does not say which animals) are allowed to be eaten, however, verse four prohibits eating flesh with its life-blood in it. Though many scholars cite this as the first mention that it is prohibited to eat meat with blood, Rashi (Rabbi Shlomo Yitzhaki of France, 1040-1105) explains that this means that one cannot eat any flesh from an

⁴ See http://www.noveal.org/sci_evidence.htm

⁵ See http://www.fsis.usda.gov/Factsheets/Veal_from_Farm_to_Table/index.asp

⁶ See Rabbi Joseph Telushkin, *A Code Of Jewish Ethics: Volume 2, Love Your Neighbor as Yourself*, page 301.

animal that is still living, and again this law is restated for greater emphasis in Deuteronomy 12:23. Rashi and Maimonides' (also frequently called Rambam, Moshe ben Maimon, 1135-1204 of Egypt) interpretation is that this will cause suffering to the animal, and therefore, it is prohibited.

For the verse that follows, it appears that the law states that any creature, man or beast, that causes death to a person shall be put to death. Exodus 21:28 expounds upon this by clearly stating "When an ox gores a man or a woman to death, the ox shall be stoned and its flesh shall not be eaten." Nachmanides (also frequently called Ramban, Moshe ben Nachman Girondi 1194-1270 of Spain) points out that even though an animal cannot tell right from wrong, as Genesis 9:6 and Exodus 21:28 make clear, the ox shall be killed. He goes further to cite the Talmud that even an ownerless ox shall be killed (Baba Kama 44b), and that therefore, the animal must be killed as monetary compensation for the death of a person cannot suffice. This takes relevance for examining modern laws of *kashrut* because Maimonides explains that the ox referred to in Exodus 21:28 does not need to die of stoning, but instead can be slaughtered in a *kosher* manner and stoned after its death to prevent it from suffering. However, even if it is killed properly, the ox still cannot be eaten, and according to Maimonides, even one who eats an olive size of the ox's meat is to be punished by whipping.⁷ Therefore, the significance is that even though this is an animal that fulfills the requirements of being pure for eating, under certain circumstances, it is forbidden to eat from this animal, even if it is killed in a *kosher* manner. The same holds true for *kosher* meat that comes into contact with anything unclean, "Flesh that touches anything unclean shall not be eaten (Leviticus 7:19)."

⁷ See Maimonides and translation by Charles B. Chavel, The Commandments: Volume Two: Negative Commandments, pages 185-6.

Torah on Requirement for Rumination:

Further trouble for a calf being treated improperly to be deemed *kosher* is found in Leviticus 11:2b-3, “These are the creatures that you may eat from among all the land animals: any animal that has true hoofs, with clefts through the hoofs, and that chews the cud – such you may eat.” As previously stated, calves that are kept in the small crates often refuse food and are unable to ruminate. Therefore, these calves do not chew their own cud and do not meet the requirement to be *kosher*.

Torah and Talmud on Preventing Pain to Animals:

As the *Talmud* bluntly states, “Scripture prohibits inflicting pain on dumb creatures (B. Shab 128b).” Throughout the Torah, there are numerous examples of taking precautionary measures to prevent or alleviate suffering of an animal, which includes both suffering from physical burdens and from hunger pains. There is so much emphasis on this that not causing unnecessary pain to animals is one of the “Seven Laws of the Sons of Noah,” which are binding upon Jew and non-Jew alike. We read in Psalm 36:7 that “G-d delivers man and beast alike,” and again in Proverbs 12:10 that a characteristic of a righteous person is that “he knows the needs of his animals.”

In the case of the malnourished, anemic calves in the crates, the holy texts of Judaism would respond with numerous quotes pertaining to keeping an animal well fed. The *Talmud* states, “A person is forbidden to acquire an animal or bird unless he can feed it properly (*Talmud Yerushalmi, Ketubot* 4.8),” and then writes further that “It is forbidden for a man to eat until he has given food to his animals (*Bavli, Berachot* 40a).” The latter is a commentary on

Deuteronomy 11:15, which reads, “And I will give grass in the fields for your cattle – and thus you shall eat your fill,” making particular note that animals eat first in this verse of *Torah*. The general explanation for this commandment is that it is written out of compassion because a domesticated animal is reliant on humans for food. When it is hungry, it does not have the intellect to know when, if ever, it will receive its next meal. Humans on the other hand, are capable of providing themselves with food within minutes of feeling hunger. Therefore, it is essential that farmers provide adequate nutrition for their livestock, including veal calves.

The *Torah* also notes that a farmer cannot prevent an animal from eating out of hunger while it is providing a service, “You shall not muzzle an ox while it is threshing (Deuteronomy 25:4).” The concept behind this commandment is that an ox is providing a service and sacrifice in order to provide humans with food. Therefore, it is wrong to muzzle it so that it cannot graze, and thus cause it to suffer while working. By that same regard, livestock that is being confined in preparation for slaughter should not have food withheld from them, as their suffering is for our benefit, and in particular, they are not eating so that humans can eat them.

The *Torah* includes mentions of preventing pain and suffering to animals. Deuteronomy 22:4 notes that if one sees an overloaded donkey suffering, he is to help the donkey, and most notably, there is the story of Balaam beating his donkey in Numbers 22 for being disobedient, only to be scolded by an angel for hitting the donkey that has been carrying him and who knew something that he did not. In regard to livestock, one particular commandment of *Torah* stands out, “You shall not plow with an ox and an ass together (Deuteronomy 22:10).” This law was written out of compassion to the working animals; if a donkey is trying to plow alongside a much stronger ox, the donkey will experience strain and will suffer. Similarly, the ox will experience frustration and anguish at having to be slowed down by and pull the donkey. This

law, as well as the commandment not to muzzle the ox, is in place not only to prevent the physical suffering of the animals, but also to prevent them from mental pain and suffering that an animal may experience, which comes with mistreatment.

Torah and Talmud on Taking an Animal from its Mother:

In preventing emotional distress of an animal as the *Torah* commands, it is important to also take into consideration the mental effect that taking a calf may have on both the calf and its mother. As noted, in the general practice of raising calves for veal, the calf is taken from its mother within three days of birth. This practice in itself is in direct violation of the *Torah*, which has a particular age that a newborn animal must be to be considered healthy enough to be taken, “When an ox or a sheep or a goat is born, it shall stay seven days with its mother (Leviticus 22:27).” Therefore, a calf taken prior to this time would be unacceptable according to *Torah*.

Maimonides cites the *Torah* in his Guide for the Perplexed (3:48) for his argument in favor of prohibiting the taking away of a calf in front of its mother, “If, along the road, you chance upon a bird’s nest, in any tree or on the ground, with fledglings or eggs and the mother sitting over the fledglings or on the eggs, do not take the mother together with her young (Deuteronomy 22:6).” Maimonides extends this law to cattle as well, stating, “the pain of the animals under such circumstances (seeing their offspring taken away in their presence) is very great... if the law provides such grief not be caused to cattle or birds, how much more careful must we be not to cause grief to our fellow man.”⁸ Fulfillment of this law is one of three laws in

⁸ See Rabbi Joseph Telushkin, A Code Of Jewish Ethics: Volume 2, Love Your Neighbor as Yourself, pages 302-3.

the *Torah* (along with honoring one's parents and acting honestly in business) for which the Scripture promises long life.⁹

In the same chapter of his masterpiece, Maimonides also takes note of the commandment, “no animal from the herd or from the flock shall be slaughtered on the same day with its young (Leviticus 22:28).” Maimonides explains that this law is “a precautionary measure in order to avoid slaughtering the young animal in front of its mother. For there is no difference between the pain of humans and the pain of animals in this case, for the love of a mother and her compassion for her child does not depend on the intellect, but rather upon the power of emotion, which is found with most animals, just as it is found in man (The Guide for the Perplexed 3:48).¹⁰ Likewise, for additional emphasis, the *Torah* prohibits the cooking of an animal in its mother's milk on three separate occasions (Exodus 23:19, 34:26, and Deuteronomy 14:21). Though the mother of the animal is unlikely to have the intellectual capacity to realize that her milk is being produced to cook her own child, this behavior is considered insensitive and perverse, and therefore, out of compassion to the mother, is in place. For any mother to see her child taken away for slaughter is considered cruel whether it is in regard to humans or in regard to animals according to the *Torah*, and is explicitly forbidden.

Torah and Talmud on Compassion towards Animals and the Sabbath:

Compassion toward animals is even included within the Ten Commandments, which instruct that an animal must rest on the Sabbath: “Remember the Sabbath day and keep it holy. Six days you shall labor and do all your work, but the seventh day is a Sabbath of the Lord your

⁹ See Rabbi Joseph Telushkin, *A Code Of Jewish Ethics: Volume 2, Love Your Neighbor as Yourself*, page 302.

¹⁰ See Rabbi Joseph Telushkin, *A Code Of Jewish Ethics: Volume 2, Love Your Neighbor as Yourself*, page 303.

God: you shall not do any work – you, your son or daughter, your male or female slave, **or your cattle**, or the stranger who is within your settlements (Exodus 20:8-10).” This part of the commandment is even included in the *Kiddush* for Saturday morning, so it is repeated again and again. An animal is supposed to rest and not be stressed on the Sabbath; however, when a calf is in the crate previously described, it is unable to rest, and thus the [calf, but more so its] owner, is in violation of the Fourth Commandment. Rashi elaborates on this commandment and would seemingly condemn the keeping of a veal calf, or any animal, in a confined crate on the Sabbath, because he says that “proper rest for animals entails not confining them indoors, but rather allowing them to roam in the field and pluck and eat grass from the ground.”¹¹ The *Talmud* reinforces this concept with the story of a non-Jew (who would later convert and become the *Tannaic* sage Rabbi Yochanan ben Torta) who bought a cow from a Jew, and this cow refused to work on the Sabbath, for it was observant of the *Torah*.¹² Also, though work is prohibited on the Sabbath, it is permissible to violate the Sabbath in order to alleviate the suffering of one’s animals according to a ruling in the *Shulchan Aruch* (*Shulchan Aruch Orach Chaim* 305:9, 18-20; 332:3-4, B. Shabbat 128b).

Even though alleviating an animal’s suffering takes precedence over Sabbath observance, it is Sabbath observance which is evaluated when determining whether or not to award a restaurant a *kosher* certificate. According to the holy city of Safed’s chamber of commerce website, “all *kosher* restaurants must be closed on *Shabbat*.”¹³ Similarly, the OK *Kosher* Certification, one of the largest *kosher* certification committees in the world, writes that in order for a restaurant to receive certification, “the proprietor should be a *Shabbat* observer, for *Shabbat*

¹¹ See Rabbi Joseph Telushkin, *A Code Of Jewish Ethics: Volume 2, Love Your Neighbor as Yourself*, page 301.

¹² See PR 14:2; Midrash Aseret ha-Dibberot (BhM 1:74-75). Taken from Hayim Bialik and Yehoshua Ravnitzky *The Book of Legends*

¹³ See <http://www.safed.co.il/kosher-restaurant-certification.html>

observance is a criterion often used to determine a person's commitment to the *Torah* and its laws." Therefore, though Sabbath observance is not directly connected to the moment of death for the animal by any means, a restaurant proprietor who does not observe the Sabbath is considered to be not trustworthy enough to uphold the integrity of the *kosher* certificate, because their commitment to the laws of the *Torah* are in question. By the same logic, one would think that though the raising of an animal and its handling is not directly connected to the moment of slaughter (however, more directly so than Sabbath observance, I would argue), that since the manner in which veal is raised is a violation of the laws of the *Torah*, veal should not be considered *kosher*. One could even go farther and suggest that the owner of the veal calves should not have any of his livestock be certified as *kosher*, because, as the OK *Kosher* Certification website states, the "person's commitment to the *Torah* and its laws"¹⁴ would be under scrutiny. Similarly, even if one was not to make such an extrapolation, as noted in the previous paragraph, the confinement of veal calves on the Sabbath is a violation of the Fourth Commandment of keeping the Sabbath, and therefore, the farmer cannot be trusted to uphold the laws of *kashrut*.

Conclusion:

We are taught by Rabbi Yochanan ben Zakkai in the *Talmud*, "When a man has compassion on God's creatures, compassion is shown for him in Heaven. But when a man has no compassion on God's creatures, no compassion is shown him from heaven (Gen. R. 33:3)." Though Judaism does allow pain to be caused to animals under circumstances that could save a

¹⁴ See <http://www.ok.org/Content.asp?ID=116>

person's life, such as medical testing, a person must show compassion for an animal and prevent its suffering for nonessential needs. In a 1992 responsa, the former Sephardic Chief Rabbi of Tel Aviv, Rabbi David HaLevy, banned the wearing of furs from animals that were killed in ways that caused emotional distress and pain to them. The rabbi explained that the furs are a luxury, and not a necessity, as there are in today's contemporary society plenty of synthetic furs that are equally warm and available for less money.¹⁵ The same standards apply to the consumption of veal that is raised in inhumane conditions. Veal is typically expensive and considered to be a delicacy, when there are plenty of other foods that can equally satisfy the human need for nutrition. Therefore, veal, and the manner in which the veal-calf is raised, is a luxury, not a necessity, and thus, the pain that the calf experiences is forbidden under Jewish law.

At the current moment, *tsa'ar ba'alei hayyim* does not play a direct factor in determining whether or not an animal is considered *kosher*, because the animal is judged at the moment of death. However, as noted, there are instances in the *Torah* when an animal's meat can at a later time be considered unclean because it has come into contact with an unclean object or because the animal has the blood of a person upon it. Therefore, there are circumstances in which the animal is reevaluated at a time other than just its slaughter. The same standard should be held too for animals, like veal-calves prior to slaughter. The manner in which these animals are kept often causes the animals to be too sickly to be slaughtered, or their internal organs are too damaged to be eaten. Furthermore, the *Torah* and *Talmud* explicitly prohibit the taking away of a newborn animal from its mother, causing an animal distress on the Sabbath, causing physical and emotional suffering to an animal, and causing malnourishment to that animal. It is also noteworthy that veal-calves often do not ruminate, and that rumination is a requirement for

¹⁵ See Rabbi Joseph Telushkin, *A Code Of Jewish Ethics: Volume 2, Love Your Neighbor as Yourself*, page 326.

kashrut. The means in which these calves are raised clearly violates *Torah* law, and as the OK *Kosher* Certification: Committee for the Advancement of *Torah*, implies on their website, in order for a proprietor to receive *kosher* certification, he must have a “commitment to *Torah* and its laws.” Though a restaurant proprietor, *shochet* or a consumer may justify himself by saying, “I did not raise the calf,” by buying meat from an animal raised not in accordance with the *Torah*, the farmer is encouraged to continue his practices, which are in violation of Jewish law. Though not directly connected to the moment of slaughter itself, the laws of *kashrut* must be reformed and the Jewish people should refrain from eating veal to hold farmers responsible for upholding the laws of the *Torah* on raising the livestock, which we eat. This is a dilemma and law that must be addressed in contemporary Judaism.

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