

בס"ד

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## The Shechitah Crisis and Animal Rights in Halacha

**Email Edition**

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### ***Mitzvos Which Exhibit the Torah's Extreme Sensitivity In the Treatment of Animals***

As we mentioned, there are many *mitzvos* which exhibit the *Torah's* sensitivity to animals. We will illustrate several of them.

#### **The Torah Outlook on Animal Rights**

**T**he *posuk* states: ורחמיו על כל מעשיו — *Hashem* is compassionate towards all of his creations.<sup>1</sup> *Chazal* emphasize that humans should strive to replicate the noble attributes of *Hashem*, and that just as *Hashem* is compassionate towards all creations, so should humans be.<sup>2</sup> The *Torah* is replete with commandments which indicate its extreme sensitivity towards animals. Virtually all *Rishonim* maintain that *tzaar baalei chayim* is *Mideoraisah*.<sup>3</sup>

In today's society, there is constant effort put forth by all types of people, from various ethnic and religious backgrounds, to protect human rights. These rights include freedom and equality. The issue of having such rights has even been raised for animals, as they are also inhabitants of planet Earth. The *Torah's* outlook towards *Hashem's* creations is not a matter of them possessing such rights. Everything in creation was created to fulfill its destiny. Animals were created to service the needs of mankind. Obviously, care should be taken not to misuse them and to ensure their welfare.<sup>4</sup>

Often, the *Torah* makes mention of even subtle discomforts which animals may experience, and thereby restricts *Yidden* from certain behavior which could possibly cause such discomfort to animals. Below, we will illustrate quite a number of such instances.

As an introduction though, it is worthy to illustrate one such instance. The *Torah* forbids one to harness a plow to an ox and a donkey. In many countries, doing so is a very common practice. Such a combination can be very useful when plowing a field. Some *Rishonim* explain that the reason why the *Torah* forbids doing so is to avoid cruelty towards animals. An ox is a ruminating animal (i.e. it chews its cud), whereas a donkey is not. The donkey may thus feel undernourished and jealous when it observes what appears to be the ox constantly eating.<sup>5</sup> Most compassionate secular animal-rights activists would never take notice of such a subtle disturbance. The *Torah*, with its overwhelming sensitivity, does.

Nonetheless, in a number of instances, being concerned for the animal's welfare may adversely affect the needs of a human being. The fine line between the amount of pain caused to an animal versus the expected gain to humanity can only be properly weighed and measured by the *Torah* and *chachomim* who have a clear and correct outlook on life, coupled with an abundance of compassion and sensitivity to all of *Hashem's* creations.

Many *meforshim* stress that the ultimate consequence of being considerate of an animal's welfare is that it automatically raises a person's level of sensitivity, which in turn, results in greater sensitivity and understanding when dealing with other human beings<sup>6</sup>.

1. It is forbidden to place a muzzle on the mouth of animal while it is threshing. Restraining an animal in this manner can torture the animal physiologically, as it works hard while passing so much produce.<sup>7</sup>
2. If an animal is carrying too heavy a load, every person present is required to help remove the load. If the animal is improperly loaded, one should help rearrange the load to ensure that it does not suffer.<sup>8</sup>
3. One should not take a bird together with her young or with its eggs. Only after sending away the mother, may one take the young or its eggs.<sup>9</sup>
4. A piece of meat which was cut from a live animal may not be eaten, as such meat has come as a result of a brutal and heartless act, which caused an animal much suffering.<sup>10</sup>
5. A mother should not be slaughtered on the same day as her youth. Some *meforshim* explain that this is to prevent the possibility of the mother being next to her youth in the slaughter chamber and witnessing the slaughter of her youth.<sup>11</sup>
6. The choice method of killing animals is via the cutting of their necks.<sup>12</sup> Below, we will elaborate on how killing an animal in such a manner is the quickest,

**Please Note:** Due to the intricacy of the material discussed in each issue, and the brevity of its treatment, a *Rov* should be consulted for a final *psak halacha*. In addition, this publication does not intend to be מכריע on issues that are *machlokes haposkim*. Although we have usually brought the dissenting views in the footnotes, we have selected for simplicity sake to incorporate into the main text the views of the *Mishnah Berurah*, R' Moshe Feinstein, R' Shlomo Zalmen Auerbach and several other preeminent *poskim*. Please send all questions and comments to 1341 E. 23rd Street, Brooklyn, NY 11210 or email to [hbinfo@thekosher.net](mailto:hbinfo@thekosher.net)

least painful and most humane way of killing animals.

### **Instances in Chazal Which Demonstrate the Necessary Compassion Towards Animals**

The *Medrash* states that one of the key attributes *Moshe Rabbeinu* possessed was his extreme sensitivity towards animals that he was responsible for. This display of compassion was one of the reasons that *Hashem* chose *Moshe Rabbeinu* to be the leader of *Klal Yisroel*.

One time, while *Moshe Rabbeinu* was shepherding a herd of sheep in the desert, he noticed that one of the sheep ran away. He chased it for a bit of a distance, and discovered that the sheep had found a small pool of water. When *Moshe Rabbeinu* reached the sheep, he said, "I didn't know that you ran away because you were thirsty. You must be tired." *Moshe Rabbeinu* lifted the sheep and carried it on his shoulders. Seeing this, *Hashem* said, "You have so much pity for the flock of flesh and blood. I swear that you will be the shepherd of my flock."<sup>13</sup>

The *Gemara* relates that *Rav Yehudah Hanassi* was severely punished by Heaven for an incident where he displayed a small amount of insensitivity towards an animal. Once, he was walking in the street and a young calf being led to slaughter escaped and ran to him. The animal tried to hide in *Rav Yehudah's* robe for protection. *Rav Yehudah* pulled the creature away and handed him over to the slaughterer remarking, "Go. You were created for this purpose." Although the statement was true, it was said with a certain absence of compassion to an animal that turned to him for help. Consequently, *Rav Yehudah* suffered for many years from terrible gastric and intestinal ailments. It was only years later, that he was cured after he exhibited sensitivity to an animal's feelings by not allowing his maid to chase away a cat.<sup>14</sup>

### **Using an Animal for Human Need**

As we pointed out earlier, everything in this world was created to fulfill its purpose. Ultimately, the purpose of all creatures, including animals, is to service the needs of mankind.<sup>15</sup>

Animals can be used to aid in a workload, be a source of nutrition, provide material for warmth and comfort, and for other human needs.<sup>16</sup>

The *Gemara* in *Shabbos* cites several ancient remedies which illustrate the purpose of some creatures, which might otherwise go unnoticed. The *Gemara* states that *Hashem* created a snail to serve as a cure for a sore. Placing a snail on a sore helps it heal. *Hashem* created a fly to serve as a cure for

the sting of a hornet. Crushing the fly and placing it on the sting helps heal the sting.<sup>17</sup>

Nonetheless, as mentioned above, the amount of pain caused to an animal must be measured versus the expected gain to humanity. As a general rule, using an animal is permitted. Misusing it is not.<sup>18</sup> We will explore below a number of principles and applications of this rule.

### **The Shechita Crisis**

The *Rambam*, *Ramban*, *Chinuch*, and many *meforshim* explain that the reason why the *Torah* chose *shechita* over other forms of killing animals is because *shechita* is the quickest, least painful and most humane method of killing animals.<sup>19</sup>

Throughout Jewish history, *Yidden* have encountered countless antagonists who criticized and questioned the Jewish way of killing animals, labeling it as ruthless and inhumane. Many of the attacks on *shechita* were triggered by anti-Semitic feelings. The first edict of the infamous Nuremberg Laws in Germany was a ban against kosher slaughter.

In a number of countries throughout the ages, governments were successful in outlawing kosher slaughter.<sup>20</sup> Even in the democratic and tolerant country of the United States, where the pursuit of religious beliefs are protected and respected, there have been various groups of animal-rights activists who have longed to become regulators of kosher slaughter. Some have the ultimate desire to see an end to the killing of any animals in any form. Most acknowledge that kosher slaughter is more humane than other forms of killing animals, but wish to regulate the methods used to perform a proper *shechita*. However, certain methods are obviously more preferred *halachically* and interference with *shechita* almost always creates *halachic* problems. Interestingly, these activists fail to realize that the methods deemed superior by *halacha* may also be advantageous to the animal.

The constitution of the United States of America guarantees religious freedom. Additionally, the USDA acknowledges that kosher slaughter is humane. These animal-rights activists have failed, in many attempts, to outlaw *shechita* using legal means, and recently, attempted to reach out to the general public and appeal for their sympathy by displaying a seemingly gruesome video of *shechita*. However, a careful viewing of what takes place on that video - without getting horror-struck or sickened by the sight of gushing blood and the throats of animals being cut - will reveal that the practices performed are not what they are portrayed to be by these activists. The emotional appeal of the video is only effective for the ignorant layman. We will demonstrate that there is a consistent

opinion of anyone knowledgeable in areas of *shechita* that, in fact, the procedures are most humane.<sup>21</sup>

First, it is imperative to familiarize oneself with the scientific understanding of *shechita* being a painless death. The *Torah* requires that the throat be cut in a continuous, swift motion with an exceptionally sharp and smooth knife of a prescribed length. The blade is thus more acute than even surgical knives.

The movement of a swift cut causes no pain to the animal and takes a fraction of a second. It cuts through the bottom of the neck, severing the trachea, the esophagus, the two vagal nerves, as well as both carotid arteries and jugular veins, which are the main blood vessels supplying and draining the head and brain. Severing the carotids causes an immediate anemic shock of the brain, which is followed instantaneously by unconsciousness. Thus, the animal does not feel any pain and is unconscious within seconds. In addition to the supreme humaneness of the act of *shechita*, it also produces better quality meat. The blood is drained from the body at such a quick pace, and this prevents the rapid deterioration of its meat.

The conventional way of killing animals is by shooting it with a captive bolt to the brain. This causes major internal bleeding, disrupts the nervous system, and the animal remains conscious longer. Although it may seem less gruesome to an observer, the animal experiences more pain. There is a significant proportion where the bullet fails to reach the sweet spot and the animal is thrown into agonizing spasms of death throws. In many instances, the animal has to be shot again - up to six times - before it collapses.

### **Different Methods of Animal Placement for Shechita**

The *shechita* cut is performed, universally, as described above. However, there are basically three different methods as to the placement of the animal in preparation for *shechita* performed in the United States.

One involves shackling and hoisting the animal into the air. In this scenario, a worker stands alongside the *shochet* and holds the animal's head while the *shochet* makes the cut.

The second method involves placing the animal in a restraining pen standing upright on the ground, and its neck is held upright and elevated with a chin lift. The *shochet* then cuts the neck from the bottom up.

The third method involves placing the animal in a revolving pen, where the animal is restrained. The animal is inverted so that it is lying on its back with its neck fastened by a chin lift, and the *shochet* cuts from the top down.

It is beyond the scope of this article to discuss which method is more *halachically* preferred.<sup>22</sup> It should be mentioned that scientific research has found the latter method to involve the least pain to the animal. This is because the weight of the head of a standing animal obstructs the flow of blood at the end of the carotid artery, and therefore, delays a drop in blood pressure which prolongs consciousness. This is contrary to the allegations of animal-rights activists that *shechita* on an inverted animal is less humane, as it appears to be torturing the animal.<sup>23</sup>

The primary allegations by the animal-rights activists were regarding the additional cut performed by a worker after the *shechita*. Their concern was that the second excision of the trachea is not necessary and causes pain to the animal. However, truth be told, the purpose of the second cut is not to slice the trachea - although this does sometimes occur unintentionally. The purpose of the second cut is to sever, once again, the carotid arteries and jugular veins. Doing so increases the bleeding and facilitates anemia and unconsciousness of the animal, (in addition to ensuring better quality meat as explained above).<sup>24</sup>

The video released by the animal-rights activists seeks to portray the worker pulling out the trachea from the animal. However, a careful viewing of the video reveals that the worker actually inserts a hook which is used to raise the arteries and veins for the second cut. In the rare instance that the trachea is accidentally cut, it will fall out and hang from the neck.

After filming thousands of animals for several weeks, these activists selected the most gruesome mishaps to portray their slanted views. One of the scenes they filmed involved an animal attempting to stand up and walk a few steps after being slaughtered. Such occurrences are very rare. The most plausible explanation for such an occurrence is that after *shechita*, the two ends of the cut artery touched, allowing blood to pass through and reach the brain, prolonging consciousness.

The standard reflex movements of an animal after *shechita* which were also highlighted on the video, should not be mistaken for signs of consciousness and pain, but are typical movements of involuntary nerve spasms.

### **Actions Forbidden Due to Tzaar Baalei Chaim**

The *poskim* discuss what types of actions are forbidden due to *tzaar baalei chaim*. We will discuss each one independently.

## **Killing**

The *Noda B'Yehudah* writes that the *Torah* only forbids *tzaar baalei chaim* when the act inflicts pain to an animal and the animal remains alive and experiences the pain. However, killing an animal instantly does not violate the prohibition of *tzaar baalei chaim* and is permitted even where there is no human benefit by doing so.<sup>25</sup>

The *Noda B'Yehudah* deduces this from a *Gemara* which relates the following story. One time, *Rebbi* heard that *Rav Pinchos ben Yair* was coming to his town, so he went out to greet him and invited him to eat a meal in his house. *Rav Pinchos ben Yair* readily agreed and *Rebbi* was overjoyed. However, when *Rav Pinchos ben Yair* entered *Rebbi's* domain, he noticed that *Rebbi* possessed some white mules. He exclaimed, "The angel of death is in this one's house and I am going to eat with him?" He obviously considered such an animal as being dangerous. *Rebbi* immediately offered to sell them. *Rav Pinchos ben Yair* retorted, "Do not place a stumbling block before a blind man" (i.e. by selling it, you are placing the buyer in danger). *Rebbi* then offered to let them loose and make the *hefker*. *Rav Pinchos ben Yair* did not like that option either, for that would have also spread the danger further. *Rebbi* then suggested that he would remove their hooves so they cannot harm anyone. *Rav Pinchos ben Yair* responded that this would involve pain to the animals. Finally, *Rebbi* decided that he is willing to kill the animals. *Rav Pinchos ben Yair* did not like this option either, since he considered it *baal tashchis*.<sup>26</sup>

The *meforshim* explain that *Rav Pinchos ben Yair* did not consider it to be a substantial risk of danger to society. For if he did indeed feel it to be a serious danger, the issue of sparing the animals from pain would not have been an issue, since human safety takes precedence. Rather, he held that such animals posed only a slight danger to society, but that it was unbecoming for a great man such as *Rebbi* to possess such animals that posed even a slight danger.<sup>27</sup>

The *Noda B'Yehuda* writes that the *Gemara* was not concerned with the issue of *tzaar baalei chaim* when the option of killing them was suggested. Thus, he maintains that there is no prohibition of *tzaar baalei chaim* when killing animals.

Many *poskim* argue and maintain that killing is a form of *tzaar baalei chaim*. We mentioned above, that it is for this reason that the *Torah* was concerned with the method of killing animals. Perhaps, only in

the *Gemara's* case where there was a slight need which justified killing the animal, would it have been permitted to do so since the animal would not have suffered much pain. Removing the animal's hooves in that case was not an option because it would have caused great pain to the animal, and the need to do so was not considered significant enough. As we mentioned, the need must always justify the pain.<sup>28</sup>

### **Causing Pain Indirectly and Relieving an Animal's Pain**

Some *poskim* maintain that the prohibition of *tzaar baalei chaim* only applies when one's act directly causes pain to an animal. However, performing an act which may indirectly cause pain to an animal is not forbidden. For example, locking an animal in a room and thus causing the animal to starve to death would not be forbidden. Locking an animal in a room does not cause the animal pain, and the animal starving is considered an indirect result.<sup>29</sup>

However, many *poskim* disagree with the above premise and cite proof from the *mitzvah* to help unload an animal of its burden. They contend that we see from there that the *Torah* requires one to act in order to relieve an animal's discomfort.<sup>30</sup> All *poskim* agree that in cases where causing pain directly is permitted, such as for human needs, it is preferable to do so indirectly, if it is at all possible.<sup>31</sup>

### **Creatures to Which the Issur of Tzaar Baalei Chaim Applies**

*Rav Yaakov Emden* maintains that *tzaar baalei chaim* applies only to creatures which can benefit mankind by performing work for them. This is similar to the *Torah's* illustration of an ox and donkey when it discusses *mitzvos* that relate to *tzaar baalei chaim*. The *poskim* maintain that a cat and dog are also included in this category. Insects and reptiles are not.<sup>32</sup> Many *poskim* disagree and maintain that the prohibition applies to all creatures.<sup>33</sup>

## **Practical Applications**

### **Hunting and Fishing**

In a very famous *teshuvah*, the *Noda B'Yehuda* discusses whether the practice of hunting done for mere enjoyment ought to be forbidden due to *tzaar baalei chaim*. His opinion, as mentioned above, is that killing is not forbidden due to *tzaar baalei chaim*. Nonetheless, he staunchly opposes the practice and writes that it is not befitting for the children of Avrohom, Yitzchok and Ya-

akov to engage is such activity, as it brings out a cruel and heartless attitude in a person. It is considered time-wasting with no constructive benefit, and qualifies as *moshav laitzim*. Additionally, it puts a person into a situation of *sakana*. Consequently, the *Noda B'Yehuda* holds that one should not hunt for mere enjoyment. Moreover, we mentioned above that many *poskim* disagree with the *Noda B'Yehuda* and maintain that killing is a forbidden form of *tzaar baalei chaim* when done for no significant purpose.<sup>34</sup>

Some *poskim* maintain that perhaps the *Noda B'Yehuda* would concede that fishing would be permitted, when it is done in a limited form for relaxation and enjoyment and is not turned into an obsession which requires much time and preparation. The *minhag ha'olom* seems to be in accordance with this view.<sup>35</sup>

### **Fly Zappers, Glue Traps and Fly Swatters**

It is not prohibited to kill insects if they are a nuisance or can bite a person. However, the *poskim* maintain that, if possible, it is preferable to place fly paper or a fly zapper in the room, rather than killing them directly with a fly swatter.

Firstly, according to the *poskim* who maintain that indirect pain is not prohibited, using such items to trap the insects are the more viable option. Additionally, Rav Moshe Feinstein writes that one should avoid killing them directly as this may affect one's nature, harden one's heart and possibly cause him to acquire bad traits. Even when causing them to die, it is preferable to use items that speed up the process, rather than using glue traps where the insect or fly suffers by being restricted and subjected to a gradual death. Thus, a fly zapper may be the most preferable option. The same applies to killing rodents.<sup>36</sup>

### **Animal Experimentation**

We mentioned above that the use of animals is permitted when it serves a human need. Consequently, many *poskim* permit using animals for medical experimentation. However, they limit this to experimentation that cannot be achieved via other means. Additionally, the amount of pain must be measured against the potential scientific gain. The gain must be significant enough. If possible, it is preferable to place the animal under anesthesia, so that it does not feel the pain.<sup>37</sup>

### **Overfeeding Geese**

Since ancient times, there has been a practice to force-feed geese an extremely large amount of corn in order to enlarge their livers. The enlarged liver of a goose is considered a unique delicacy. Presently, it is one of the most popular dishes in France.

The procedure of force-feeding generally begins when the goose's body weight is about 4 kg and its age about 8-10 weeks. During the process, the goose is fed forcefully, by inserting a tube into its esophagus. This is repeated several times per day. The food is high in energy, in an attempt to render the liver particularly fat. The amount of food given forcefully is much higher than the recommended nourishment for the goose. Force-feeding continues for several weeks, until the liver reaches the optimal size. At this stage, the dimensions of the liver are up to eight times its natural size. During the period of force-feeding, the goose is fed only this way, but continues to drink water in a natural manner.

There are two issues that have to be analyzed from a *halachic* point of view concerning this practice. Firstly, regarding the issue of *tzaar ballei chaim*, the goose undoubtedly undergoes a lot of pain throughout this process. Aside for the abnormal manner in which it is fed and the enormous volume of food it consumes, the goose also experiences much pain by the fact that its internal organs are unevenly proportioned. The liver can grow up to eight times its natural size while the rest of the organs retain their normal size. The liver thus applies major pressure on the other organs, including the lungs. Indeed, in a number of countries, the animal rights activists were successful in banning this procedure. From a *halachic* point of view, although the *Torah* places extreme emphasis on the welfare of animals, nonetheless, human interests take precedence. Since such a food is very sought after, it would not be prohibited due to *tzaar ballei chaim*. Care should be taken, of course, to minimize the pain as much as possible. Indeed, there are new methods which involve inserting a plastic tube instead of a metal one, and liquefying the food as much as possible to minimize the pain.<sup>38</sup>

The second matter that must be considered is the issue of piercing the esophagus during the process, which would render the goose *treif*. This issue has been the source of great controversy. In fact, about two hundred years ago, this issue even split Jewish communities apart. There were many *poskim* who maintained that even if one examines the esophagus and verifies that there are no holes in it, one should still avoid eating it. Others were lenient in such

a case. It is beyond the scope of this publication to delve into the matter further. However, it is worthy to mention that although nowadays the procedures that involve the use of a plastic tube do not generally pierce the esophagus, nevertheless, unless one has a specific *minhag* to be lenient and eat it, one should avoid doing so.<sup>39</sup>

### **White Veal**

Beef is meat from a cow or steer. Veal comes from calves (i.e. only a few months old) and is considered a delicacy due to the fact that the meat is softer and tender. There is a type of veal called 'white veal,' which is much tender and has a whitish appearance.

The extra tender texture of white veal is a result of the way the animal is raised. The calves are taken from their mothers within a few days of birth and kept in cages that are only 2 feet wide and 6 feet long. This restricts their movement and prevents their muscles from developing so that their flesh remains soft. The calves are fed a milk formula designed to help them gain at least 2 pounds a day. The diet is high in protein and purposely low in iron so that the calves become anemic and their flesh stays white and tender.

The *poskim* discuss the *halachic* status of such meat on three accounts. The first issue is *tzaar ballei chaim*, as the animals experience much pain from being restricted from flexing their muscles and due to their poor diet. From a *halachic* point of view, although the *Torah* places extreme emphasis on the welfare of animals, nonetheless, human interests come first. Since such food is very sought after, it would not be prohibited due to *tzaar ballei chaim*. Care should be taken, of course, to minimize the pain as much as possible. Indeed, in recent years, much effort has been expended to ensure that the barns are environmentally controlled for optimal animal health and safety. Barns are well-lit and a constant source of fresh air is circulated. Many barns are temperature-controlled as well. There is a bit more room where calves can stand, stretch, groom themselves, and lay down in a natural position. The cages have slotted floors which allow for efficient removal of waste. The calves are carefully watched to make certain that they do not suffer from any clinical symptoms such as weakness or loss of appetite.<sup>40</sup>

The second issue the *poskim* dealt with was the fact that most of the calves incurred defects in their lungs which would render them *treif*. However, due to the better environmental conditions, the percentage was reduced tremendously. All of the

lungs are carefully examined after shechita.<sup>41</sup>

The third issue was the fact that their diets consisted exclusively of *bosor b'cholov*, which, according to a number of *poskim*, would forbid the consumption of their meat. There are grounds to say that this is not a problem either. Most notable is the fact that the *bosor b'cholov* mixture is not cooked in a *kli rishon* which is a prerequisite to forbid it on a *De'oraisadike* level according to many *poskim*.<sup>42</sup>

### Horseback Riding, Animal Training and Bull Fights

Horseback riding is permitted as it is beneficial to humans. Throughout this discussion we have mentioned that human needs take precedence over an animal's welfare. Misusing animals unnecessarily should obviously be avoided. Therefore, care should be taken not to spike the animal with the spur if it is not necessary. The same applies to animal training. Much care must be employed not to cause animals unnecessarily suffering when training them.

Rav Moshe Feinstein limits human need to something that is a general need for people such as food, health, and work. The permit applies only where the suffering caused is merely a means for obtaining a product or a benefit, and even then, only where there is no possibility of obtaining these without causing the suffering. However, where the product or the benefit is the actual suffering of the animal, it is clearly forbidden, even if one benefits financially as a result. Therefore, arranging bull and cock fights, even where there is a financial gain, should be avoided.<sup>43</sup>

## מראה מקומות

1.	תהלים קמ"ה:ט.	23.	ע"י שפר "שחיטה באור תש"ס".
2.	שבת דף קלט.	24.	ע"י דעת קדושים סי' כבא, בית דוד סי' כגה ביטה"ב, וע"י ריכ"מ תשובה סי' כב: ט שיש להדור לחתוך הוורידים דם אף שהשחיטה כשירה בלאו הכי.
3.	ע"י מס' ב"מ דף לה: דמסקינן צער בעלי חיים מדאורייתא, וילפינן ממצות פריקה, וע"י מס' שבת דף קכה, וכן נקטו רוב ראשונים כפשוטו הגמ'. ע"י רש"י במס' שבת שם, וע"י ר"ן במס' ב"מ שם שמקור האיטור הוא ממצות פריקה, ולדעת המאירי בב"מ שם נלמד מאיטור חתימה, והרמב"ם בספר מורה נבוכים מאמר ג' פ"ז לומר מתביעת המלאך אל בלעם, וכן איתא בספר חסידים סי' תרט"ו, והחת"ס בהגהותיו על מס' ב"מ סובר שהמקור הוא מהפסוק "ורחמיו על כל מעשיו", וברמ"א ח"מ סי' רע"ב:ט. נקט כרוב ראשונים שצע"ב דאורייתא. אכן ע"י ביראים סי' ש"ג שהוא דרבנן, וברעת הרמב"ם יש לפלול באחרונים, ע"י כס"מ הל' רוצח יגט, וע"י ביראי הגר"א בשו"ע שם סי' י"א, וע"י מנ"ח מצוה פ'.	25.	ע"י שפר "שחיטה באור תש"ס".
4.	ע"י לקמן הע' 15.	26.	ע"י מס' חולין דף ז'.
5.	ע"י דברים כבי, ע"י בעל הטורים שם. וע"י חינוך מצוה תקנ"ט שכתב הסבר אחר.	27.	ע"י שו"ת תה"ד בפסקים סי' קה, וע"י שו"ת שבות יעקב ח"ג סוף סי' עא שהסביר באופן אחר.
6.	ע"י רמב"ן בדברים כב ר"ז, וע"י חינוך במצ' שפרטו למטה.	28.	ע"י שו"ת חת"ס יו"ד סי' ש"ד בסוף התשובה, וע"י שו"ת נו"ב סי' פב ופג. ע"י מנ"ח מצוה פ"ג דאפילו בשב ואל תעשה אסור, וע"י שו"ע הרב ח"ו הל' צע"ב סעי' ד', ובקיצור שו"ע קצא"א שיש חיוב גם להציל בהמה של הפקר. וע"י שו"ת אג"מ שם שמשמע שאסור במקום שאין כאן צורך אדם, אכן יש להעיר ממש"כ בדברות משה במס' ב"מ סי' ל' ענף ב' ובאג"מ או"ח ח"ב סי' כב שאין שום חיוב לזון בהמה של הפקר.
7.	ע"י דברים כהד, וע"י חינוך מצוה תקצ"ו.	29.	ע"י שו"ת חת"ס יו"ד סי' ש"ד בסוף התשובה, וע"י שו"ת נו"ב סי' פב ופג.
8.	ע"י דברים כבד, וע"י שמות כגה, וע"י חינוך שם.	30.	ע"י מנ"ח מצוה פ"ג דאפילו בשב ואל תעשה אסור, וע"י שו"ע הרב ח"ו הל' צע"ב סעי' ד', ובקיצור שו"ע קצא"א שיש חיוב גם להציל בהמה של הפקר. וע"י שו"ת אג"מ שם שמשמע שאסור במקום שאין כאן צורך אדם, אכן יש להעיר ממש"כ בדברות משה במס' ב"מ סי' ל' ענף ב' ובאג"מ או"ח ח"ב סי' כב שאין שום חיוב לזון בהמה של הפקר.
9.	ע"י דברים כב ר"ז, וע"י רמב"ן שם, וע"י מה שהביא מדברי הרמב"ם.	31.	ע"י שו"ת אג"מ חו"מ ח"ב סי' מז.
10.	ע"י בראשית ט"ד, וע"י דברים יב, וע"י חינוך מצוה תנ"ב.	32.	ע"י שאילת יעב"ץ סי' ק"י.
11.	ע"י ויקרא כב, וע"י רמב"ם במורה נבוכים ג'מח, וע"י חינוך מצוה רצ"ג.	33.	ע"י שו"ת אג"מ שם, וע"י שו"ת תורה לשמה סי' שצ"ז מה שהביא מכתבי האריז"ל. וע"י בגמ' שבת דף יב. וע"י שו"ת תשובות הנהגות ח"ב סי' תשכ"ו,
12.	ע"י דברים יב, וע"י רמב"ם במורה נבוכים שם, וע"י חינוך מצוה תנ"א, וע"י רמב"ן בראשית אכט, וע"י ביאור בשו"ת חת"ס או"ח סי' נד, אכן ע"י פמ"ג בסוף הקדמתו להל' שחיטה שכבר כתבו כולם שאין ליתן טעם על שום מצוה וכן חמש הל' שחיטה, ע"י ש.		
13.	ע"י שמות רבה ב,ב.		
14.	ע"י מס' ב"מ דף פה. וע"י מהרש"א שם שמפרש הגמ' קצת באופן אחר.		
15.	ע"י מס' סנהדרין דף קח. וע"י מס' קידושין פב.		
16.	ע"י רמ"א אב"ע סי' ה"ד שכל דבר הצריך לרפואה או לשאר דברים לית ביה משום איטור צער בע"ח, וע"י תה"ד בפסקים סי' ק"ה שהאריך בזה.		
17.	ע"י מס' שבת דף עז.		
18.	ע"י שפר צער בעלי חיים דף 338 שהוכיח		
19.	ע"י ציון 12 לעיל.	34.	ע"י שו"ת נו"ב יו"ד ח"ב סי' י'.
20.	ע"י שפר צער בעלי חיים בהלכה שיש אריכות בזה.	35.	כך שמעתי מהגר"י בעלסקי שליט"א ולא שייך טעמא דסכנה, וליכא אכזריות בזה כמו בהריגת בהמות וחיות (קצת צ"ע ממש"כ באג"מ בענין הריגת זבובים, ואולי יש לחלק), ובאופן הכתוב בפנים ליכא מושב לצים.
21.	כמה דברים שהועתקה כאן בא מספר "שחיטה באור תש"ס", ומרישה אצל מומחים.	36.	ע"י שו"ת אג"מ שם. ולפי החת"ס הנ"ל ליכא איטור ע"י גרמא, ולפי השאלת יעב"ץ הנ"ל בכל אופן מותר שלא שייך איטור בזבובים, ולפי הנ"ב להמית כל בע"ח לאלתר מותר.
22.	ע"י שו"ע יו"ד סי' י"ד שהדריך הוא בשחיטה מונחת, וע"י נו"ב שם. וע"י אג"מ יו"ד ח"ב סי' י"ג שמתיר שחיטה תלויה רק בראש קשור היטב למעלה, אבל מחמיר כשאדם מחזיק את הראש, וע"י שו"ת לבושי יו"ט סי' כ' שהארמ"ג מסאתמר התייר שחיטה תלויה לגמרי בכל אופן. אכן, ע"י שו"ת הר צבי יו"ד סי' י"ז שהחמיר, וע"י שו"ת מנח"י ח"י סי' נט שהתיר שחיטה עומדת אבל סיים שם שלמעשה עלה בידו או בעוה"ז לבטל הגזירה ולשחוט כדרך שנהגו העולם (דהיינו בשחיטה מונחת).	37.	ע"י רמ"א אב"ע סי' ה"ד שכל דבר הצריך לרפואה מותר, וע"י שו"ת שבות יעקב ג'עא שמה שכתוב הרמ"א שמ"מ העולם נמנעים דהוי אכזריות, לא שייך היכא שעושה ע"י גרמא, וע"י חלקת יעקב אל, שרידי אש ג"ז, שו"ת צ"ץ אלעזר ח"י"ד סי' טח.
40.	מרישה אצל מומחים, ומ"ש בשו"ת אג"מ אה"ע ח"ד סי' צב שאין בו שום תועלת לטעם הבשר, זה ע"פ מה ששמע מאנשים שאמר לו שהמציאות כן הוא, אבל באמת אין זה נכון.	38.	ע"י שפר צע"ב פ"ד שהאריך בזה.
41.	ע"י שו"ת אג"מ שם, וממומחים שמעתי שבזמן הזה הטרופות לא שכיח כ"כ יותר מסתם פרות.	39.	ע"י שו"ע יו"ד סי' לג סעי' ט', וע"י רמ"א שם, וע"י בב"ח שם שהרעיש מאוד נגד זה, וע"י שו"ת דברי חיים ח"ב סי' לט, ע"י בני יששכר בספרו אגרא דכלה סוף פרשת וארא, וע"י שבט הלוי ח"ט סי' קנ"ג.
42.	ע"י שו"ע ורמ"א בסי' ס', וע"י בש"ך שם סק"ה שדוקא כשאוכל איטורי הנאה, וע"י בשו"ת אג"מ או"ח סי' קמ"ז שמקיל בכל גונא, וע"י בסוף ענף ה' שהסכים שיטתו שם, וע"י מ"ב סי' תמ"ח סעי' ז' בד"ץ של בהמה שאכל חמץ, וע"י ש' לענין הבשר והחלב. ושמעתי מהגר"י בעלסקי שהבישול נעשה בכלי שני.		
43.	כך שמעתי מפוסקי זמנינו, וע"י בספר חסידים סי' מד שמוותר לרכוב על בהמה, אך אלו המכים את הבהמה במגפיהם - עתידין ליתן את הדין. ובהגדרה של צורך אדם ע"י בשו"ת אג"מ אה"ע ח"ד סי' צב.		

**IN THE NEXT ISSUE**

**THE METZITZA CONTROVERSY**

- *What are the required steps in performing a bris milah?*
- *To what extent does medical opinion influence halacha?*
- *What role does metzitzah - the process of drawing blood from the wound - have in performing a bris milah? Is it a therapeutic measure or an integral part of the mitzvah?*
- *Is it halachically unacceptable to perform metzitzah using a suction device?*
- *What is the power of a minhag Yisroel?*
- *What is the traditional way to perform metzitzah on the wound?*
- *Are there any health risks associated with that method?*
- *What did the gedolei Yisroel rule approximately two hundred years ago when the traditional way of performing metzitzah was first challenged?*

# Ask the

# Gedolei Haposkim

שאלו זקניך ויאמרו לך

**Horav Dovid Feinstein**  
Rosh Yeshivah, Mesivta Tiferes Yerushalayim

**Horav Yisroel Belsky**  
Rosh Yeshivah, Yeshivah Torah Vodaas

**Horav Shlomo Miller**  
Rosh Kollel, Kollel Avreichim - Toronto

In addition to the limud hatorah that is generated by this column, the purpose of this column is twofold. Firstly, it is to provide the general public with an available forum to present questions in all areas of halacha to the leading poskim of our time. Secondly, it serves to alert readers of common shailos that some people are bothered by and may go unnoticed by the general public.

Please note that this column is not aimed at tackling well-known halachic disputes amongst poskim, nor to publicize or promote the view of a particular posek. Additionally, this column clearly does not take the place of local Rabbonim who should be consulted constantly with regard to all shailos.

## Shidduch Information - A Deaf Brother

**Q:** A shidduch was 'red' to a specific individual who called me for information about the boy. I know that this boy has a brother who is deaf. **Question:** Am I obligated to tell this individual that this boy has a deaf brother?

**Moshe Leib H.**  
Monroe, NY

### Horav Dovid Feinstein's Response:

If it is only one such incident in the family that he knows about, he is not obligated to tell.

Moreover, even if this is his only brother and you might ask that if they would ever get married and the husband would die *chas veshalom* without any children, the wife would remain an *agunah* since this brother cannot perform *chalitzah*, still, you are not *mechuyav* to worry about it. Why should we even think about these things?

## Shidduch Information - Someone With a Temper

**Q:** If a boy that is being 'red' a shidduch has a temper, is one required to divulge that information?

**Miriam G.**  
Lakewood, NJ

### Horav Dovid Feinstein's Response:

If someone asks you clearly, "Does he have a temper?", and you know that he has a temper, then you have to answer him. If they don't ask anything about a temper, you are not *mechuyav* to volunteer the information since it is only an opinion and there are many people with tempers whose marriages work out very nicely too. Perhaps, you can say "I don't know", but a lie you can't give.

If it is something tremendous, then you have to say. If he happens to have a health condition or whatever the story is and they are trying to hide it from them, and it would

definitely harm the *shidduch*, then you have to say. But again, it has to be something that is 100% and clear cut, and not something that you judge to be harmful to the *shidduch*.

If it is your relative that is asking the question, then *מבשרך לא תתעלם* - You should answer the question, but you must phrase it correctly, such as saying, "According to my opinion, he has a temper." If the person asking the question is not a relative, then even if the person is very close to you and has full trust in the information you give, you do not have to volunteer information that is only an opinion and not clear-cut.

## Observing an Accident and Waiting For the Police Report

**Q:** A person observed a car accident that involved a Yid and a goy and he saw that the Yid was definitely not liable for what happened.

**Question:** Is the observer required to give of his own time and wait around for a half hour or an hour for the police to create a report so that he can testify in defense of the Yid?

**Avremel F.**  
Brooklyn, NY

### Horav Dovid Feinstein's Response:

Time is not a loss. That's what *hashavas aveidah* calls for. However, if you will have a loss by waiting around, such as if you take off from your job or something, then *שליך קורם* (i.e., you take precedence) and you don't have to lose money because of it. However, if you know that the person will compensate you for your loss, you have to stay there. I am sure that if the person will win the case, there won't be a problem and he will give you the money. He may even give you the money before that.

## Putting Money In a Meter For Someone Else

**Q:** I was walking down the street and I saw a car that belongs to a Yid parked in spot where the meter

had run out. Apparently, the individual had not put in enough money into the meter for the amount of time that he had planned to be away. I observed a police officer coming down the block giving out tickets to cars parked by expired meters. **Question:** Did I have a mitzvah to put a quarter into the meter to save my fellow Yid from a ticket?

**Stuart J. F.**  
Brooklyn, NY

### Horav Dovid Feinstein's Response:

Why not put in a quarter? For only a quarter of *tzedaka* you can save a Yid a significant loss. Isn't that worth it? It is only *tzedaka*, though. You are not obligated to do so because of *hashavas aveidah* unless you know who it is and he will compensate you. But, of course, it is a big *chesed*, as the ticket may cost him fifty, one hundred, or even two hundred dollars and all it costs you is a quarter or perhaps a bit more.

## Using a Company Paid Car Service For Personal Use

**Q:** My friend's employer asked him to work late and agreed to pay for a car service back to Monsey. The car service the company usually uses charges \$150 for the ride home, which the company pays for. My friend prefers to use a Monsey car service because the drivers know the way better, and the Monsey car service charges only \$80. He puts it on his credit card and the company reimburses him. On the way home, my friend wants to stop in Washington Heights to pick up his mother to come to Monsey. That extra stop costs an additional \$10. **Question:** Can he charge the entire \$90 to the company, since it is less than the \$150 his company is willing to spend, or should he just charge the \$80 - excluding the extra fee for picking his mother up on the way home?

**Yehoshua P.**  
Brooklyn, NY

### Horav Yisroel Belsky's Response:

There is no question that he can

charge the \$90. If he would charge the company \$150, pay the taxi \$80 and keep the \$70 for himself, it wouldn't be right. The company said it would pay for the taxi ride, and no more. But if they had a choice between paying for two taxis, one for \$150 and the other one for \$90, which is \$80 plus the extra service to pick up his mother, they would certainly be amenable to pay for the less expensive taxi ride over the more expensive one. Picking up the mother is really not a separate ride. It's a ride that includes an extra charge of \$10, adding up to \$90, because it made a stop. Naturally, there's a limit to these things. If the taxi would make another three stops, it wouldn't be fair to charge it all to the company. However, if he would take a regular car service for \$150 and pick up his mother for \$10, he can't his company the \$160.

If you say that you have a ride that provides more service and charges less, who would think that the company would insist on paying \$150? The worker feels better with the less expensive ride, because he is able to pick up his mother. The company wants the worker to have a comfortable ride home; that is why they're paying for the taxi.

### Taking a Wife Along on a Business Trip

**Q:** A round-trip first-class plane ticket to London costs \$4,000. My company bought me this ticket for a business trip. I want to take my wife on economy class (for \$300 per ticket), and the company said no. Do I have to listen?

**George K.**  
Memphis, TN

### Horav Yisroel Belsky's Response:

There is a great difference between this and the taxi ride that I answered previously. The company wants him to travel first-class so that he will be fully rested when he arrives and go straight to work feeling great. If he travels economy, he'll be bothered and will lack peace of mind. Why do they pay the extra money for first-class? Because he's probably going to be there for ten meetings in only one day, one meeting after the other. They want him to arrive refreshed. In first-class, a person can stretch out, and can practically sleep the entire trip. In economy class, his head wouldn't be the same. So for them it's worth it.

But regarding the taxi ride, there's no aspect in which his company will suffer.

### Keeping Gifts From Questionable Sources

**Q:** If one receives a gift from or has business dealings with someone who is, or can be assumed to be, using money not dictated to them by hilchos

*yerusha, what is the halacha? For example, if one received a bar mitzvah or wedding gift from an elderly aunt who was recently widowed with no children, and she is unaware that all of her husband's assets (excluding her kesubah, etc.) now belong to her husband's relatives and the relatives were probably not makneh or mochel the assets to her. Question: Must the gift be returned, put aside, or may one keep it?*

**Yaakov Z.**  
Lakewood, NJ

### Horav Shlomo Miller's Response:

Firstly, in the case mentioned, it is not clear that everything doesn't belong to her. Some of the assets may rightfully belong to her *al pi halacha* because they may have been placed in a bank under two names – including hers. If it was put under two names, it belongs to her.

Moreover, even if the wife's name is not on the account, there are grounds to say that the money belongs to her. If a person has money in a bank, it is considered as if the person lent money to the bank. When one does so, he accepts the bank's rules and regulations which dictate, that if he dies, the money will be handed over to a heir. The bank's rules state that if the holder of the account dies, the money will be given to the closest heir, which would be a wife, if she is alive. Therefore, if the husband's money had been put into the bank, the money probably would *halachically* belong to her.

In addition, she has a right to *mezonos* (financial support) and to continue to live as comfortable as she did during his lifetime from his assets until she remarries (unless she was paid out the *kesubah* payment).

Many of these cases involve intricate details and each specific case should be discussed with a *Rov*.

### Crock Pot Liners On Shabbos

**Q:** Is using crock pot liners (e.g. plastic bags which food is placed into) on Shabbos considered *hatmanah*?

**Mordechai G.**  
Indianapolis, IN

### Horav Shlomo Miller's Response:

The liners are not made for *hatmana*, They're not made to keep the heat in. They're made in order not to get the pot dirty. Therefore, it is not *hatmana*, because that is the *derech* to cook in such a pot, and it is not the *derech* to be *matmin* in a pot by using a liner.

### The 2,000 Dollar Question

**Q:** A friend of mine is in the construction business. I found out that he was going to a certain warehouse

to pick something up, so I asked him to pick up boxes of tiles that I had purchased there and bring them home to me. I gave my friend \$6000 which was the agreed price for the tiles. When my friend got there, he bargained with the seller and the seller agreed to give him the tiles for \$4000. Question: Who does the \$2000 difference belong to?

**Aaron K.**  
New York, NY

### Horav Shlomo Miller's Response:

The *shliach* has a right to some money because he did something for the *me-shale'ach*, the sender.

We find a concept in the *Gemara* of one person benefiting from the actions of another person where he never asked him for the help (היורר לשרה חבירו). The *halacha* is that he has to pay him something. This is very common in a situation where a person gives his friend information about a house for sale and his friend ends up buying it.

In our case as well, the *shliach* did the sender a favor for which he is entitled to be compensated. The question, however, is how much he is entitled to. There are many variables that must be taken into account in such a case, including whether the *shliach* used the sender's money to purchase the item and whether the *shliach* has a personal affiliation with the seller or if he merely negotiated the deal. All these details, plus many more, have to be taken up by a *beis din* where both sides present their case, and the *beis din* will determine how much the *shliach* is entitled to.

Please send questions to Ask the Gedolei Haposkim, c/o Halacha Berurah, 1341 East 23rd Street, Brooklyn, NY 11210-5112 or to [asktheposkim@thekosher.net](mailto:asktheposkim@thekosher.net). All questions should be submitted in English. Please include contact information, including a name, city, state and phone number, which will be used solely to ensure the accuracy of the *shailos* submitted. Questions submitted will be selected randomly and presented to one of the *gedolei haposkim* on the panel. We cannot guarantee that every question we receive will be printed. Questions submitted may be edited for content and will be presented to the *posek* verbally. The *posek's* verbal response will be transcribed and reviewed by the *posek* for accuracy.