

“ויהי עשו איש ידע ציד איש עדה...” (בראשית כ"ה כ"ז)

“And Eisav became a skilled hunter, a man of the field ...”

One of the recurring themes of Sefer Breishis is the two occupations of shepherding and hunting. All of our forefathers earned their livelihood by raising and shepherding sheep, whereas many of the wicked characters of Sefer Breishis (Kayin, Tuval Kayin¹, Nimrod, Eisav) were master hunters. This distinction is more than mere happenstance. Being a shepherd requires much caring, mercy and devotion, while hunting demands much of the contrary – a bloodthirsty desire to kill living beings, the antithesis of the compassionate traits of the Avos. Eisav's pursuit of a career in hunting led to much of his downfall, beginning with his murder of Nimrod, the ceding of his firstborn rights, and eventually to the designation of eternal warfare as his fate.

Sources The prohibition against causing unnecessary pain to animals in general, as well as the specific permissibility of hunting for sport is subject to much discussion in the Poskim. The Torah commands us to assist an animal that is straining under an arduous load². The Tannaim in Bava Metziah dispute if this commandment is intended for the benefit of the animal or the benefit of its owner³. According to the majority opinion, this Mitzvah of Perikah is for the benefit of the animal, and is the source for the biblical obligation to allay the pain of animals, known as צער בעלי חיים. Nearly all Rishonim rule, that the prohibition to cause pain as well as the obligation to prevent and alleviate an animal's pain is D'oraysah – of biblical origin⁴. Some cite additional or alternate sources for this, such as the Torah's prohibition against muzzling an animal while it is plowing, which in essence starves the animal while it works⁵. Some Acharonim point out that from the fact that a miracle occurred in the desert to provide water for Klal Yisrael's animals, we see the Torah's concern for animal well-being and can apply the lesson to ourselves⁶. The Chassam Sofer writes that we are obligated to emulate Hashem whose compassion is for all of his creations – ורחמינו על כל מעשיו⁷. Others state that the prohibition of צער בעלי חיים is simply a מסיני – הלכה למשה מסיני – an oral tradition given to Moshe at Sinai⁸.

The Rambam explains the Mitzvah of Perikah – helping to unload a distressed animal as an obligation to help another Jew. The obligation is not based on alleviating the pain of the animal, rather it is included under the category of Mitzvos that are intended to help one's fellow in distress⁹. Although this Mitzvah is not based on צער בעלי חיים, there is an independent biblical prohibition of paining animals. The Rambam in Moreh Nevuchim cites the Malach's reproach to Bilaam for smiting his donkey as the source for the prohibition of צער בעלי חיים¹⁰.

The Pri Megadim states that even according to the minority opinion that צער בעלי חיים is only of Rabbinic origin, all would agree that on Shabbos there is a prohibition of צער בעלי חיים Mid'oraysah. Since the Torah commands us to allow our animal's to rest on Shabbos, we are obligated to prevent them from experiencing pain or discomfort as well¹¹. For this reason, since cows need to be milked every day, one may instruct a non-Jew to milk them on Shabbos (a forbidden type of work) to prevent the cows the pain of not being milked¹².

Hunting & Shechita Until this point we have only discussed causing pain to animals. The Acharonim discuss if killing an animal is included in this prohibition. Some Acharonim state that killing an animal is not included in the prohibition of צער

¹ רש"י בראשית ד' כ"ב, תובל קין - תובל אומנתו של קין. תובל לשון תבלין, תיבל והתקין אומנתו של קין לעשות כלי זיין לרוצחים.

² דברים כ"ב ד', לא תראה את חמור אחרך או שורו נפלים בדרך והתעלמת מהם הקם תקים עמו.

³ ב"מ לב ע"א, מצוה מן התורה לפרוק אבל לא לטעון. מאי אבל לא לטעון וכו'... אמר רבא: מדברי שניהם נלמד: צער בעלי חיים דאורייתא, ע"ש בכל הסוגיא.

⁴ הרי"ף שם, מאירי שם, מרדכי, רא"ש, רשב"א, תלמיד הרשב"א, שיטמ"ק, נימוקי"ש, כס"מ הל' רוצח, בעה"מ, רמב"ן שבת קנ"ד ע"ב, שו"ת מהר"ם ח"ד ס' מ"ט,

אשכול הל' שחיטה חולין ס"י, וע' מנח"ח מצוה פ'. רק ביראים ס' שנ"ב משמע דס"ל מדרבנן, אולם בס"ר משמע דהוה מדאורייתא, ע' מהר"ם שיק מצוה פ'.

⁵ מאירי והשלמה ב"מ שם.

⁶ ס' יום תרועה ר"ה כ"ז.

⁷ חת"ס ב"מ שם ובשבת קנ"ד ע"ב.

⁸ שיטמ"ק שם בשם הריטב"א.

⁹ רמב"ם רוצח ושחית הנפש יג ה"ט, בהמת הגוי והמשא של ישראל אם היה הגוי מחמר אחר בהמתו אינו זקוק לה, ואם לאו חייב לפרוק ולטעון משום צער ד

ישראל, וכן אם היתה הבהמה של ישראל והמשוי של גוי חייב לפרוק ולטעון משום צער ישראל.

¹⁰ מורה נבוכים מ"ג פי"ז, ס' חסידים ס' תרס"ו, וע' מעשה איש ח"ח וטובך יביעו ח"ב עמ' תע"ו.

¹¹ פמ"ג או"ח ס' ש"ח א"א סקס"ח.

¹² שו"ע או"ח ש"ה כ', מותר לומר לאינו יהודי לחלוב בהמתו בשבת משום צער בעלי חיים שהחלב מצערה, והחלב אסור בו ביום. וי"א שצריך לקנותו מן האיני יהודי

דבר מועט, שלא יהא נראה כחולב לצורך ישראל.

13. However, from many Rishonim it would seem that this prohibition includes killing animals as well¹⁴. One practical application of this dispute is in regard to hunting for sport. The Nodah Biyehudah writes that although halachically it is permitted to kill an animal for any purpose that serves people, we only find this kind of activity associated with such nefarious characters such as Eisav and Nimrod. Hunting is not an activity practiced by our compassionate forefathers, and is not a suitable practice for their descendants¹⁵. Furthermore, hunting is often a dangerous activity for which one would not be permitted to endanger himself, since it is not for any justifying purpose. Hunting is permitted for livelihood¹⁶. The Rama rules that hunting is forbidden as it is associated with the activities of מושב לצים – frivolous gatherings¹⁷.

The Torah commands us that whenever we wish to consume meat we must first slaughter the animal in accordance with the laws of Shechita. The reason for the Mitzva of Shechita is certainly much deeper than simply the most painless way of terminating an animal's life¹⁸. There are many deep reasons and spiritual remedies accomplished by the Mitzva of Shechita, but it also happens to be an extremely painless and humane way of slaughtering the animal. The Rambam, Ramban and the Chinuch all point out that the pain-free manner of slaughter is indeed one of the reasons for Mitzvas Shechita¹⁹. Some Acharonim compare this to the concept of "ברור לו מיתה יפה" – "choose for him a benignant death" that is said in regard to people who are subject to execution by Beis Din²⁰.

Not only is Shechita the most pleasant form of death for the animal, it is actually coveted by the animal's inner spiritual yearning. An animal that merits Shechita and to be consumed by Yidden has attained its heavenly purpose in this world²¹. The Gemara in Bava Metzia tells us that in the times of Rebbi an animal that was being brought to the slaughterhouse escaped and ran towards Rebbi. The animal buried its head in Rebbi's hem and was wailing. Rebbi addressed the animal and said "Go, for this you were created". Because of Rebbi's lack of compassion towards the animal he suffered many years of painful illnesses²². The Acharonim explain that although Rebbi was correct that an animal is created for the purpose of slaughter for humans, this particular animal was being led to a non-Jewish slaughterhouse. Since the ultimate attainment of an animal is to be slaughtered with Shechita and be consumed by Yidden, the animal was justified in its resistance²³. Interestingly, the Gemara in Pesachim states that an ignoramus should not consume meat²⁴. Some explain that the reason for this is since the higher purpose of the animal is only attained when it is consumed by those who serve Hashem properly²⁵.

Although Shechita is relatively painless, it is unavoidably the destruction of a living being. Hence, the Bracha of שהחיינו (which is recited at particularly joyful occasions) is not said on Shechita²⁶. The Shach argues that this reason alone does not warrant the omission of שהחיינו, rather the Bracha is omitted since the Mitzva of Shechita is not an obligation. One is only required to do Shechita if he desires to eat meat, hence, it does not require a שהחיינו²⁷. The Rama quoting the Mahari Veil adds that one should not wish the customary blessing of "תבלה ותתחדש" to one who has purchased new leather shoes or clothing²⁸. This blessing is wishing that the person be able to use the new garment until it has worn out and a new one needs to be purchased. Hence, we do not wish such a thing by leather clothes since the necessity of a new leather garment is a presage of some animal's death. The Rama himself states that this reasoning is weak since it is not certain that a new animal will need to be killed to create a new pair of shoes. It is possible that there will be leather already available. However, he concludes that many are indeed careful not to wish this blessing on leather garments²⁹. (It is possible that the same would apply to any new purchase made from leather, such as a couch or even a car with leather seats.)

Some Acharonim extend the above Halacha that also the Bracha שהחיינו should not be said on a new garment that is made from leather³⁰. The Pri Megadim rejects this opinion and rules that one should make a שהחיינו on new leather clothing even if he does not wish ותתחדש to others for such garments³¹.

¹³ שו"ת עבודת הגרשוני ס' י"ג, שו"ת נו"ב תניינא יו"ד ס' י' ו"ג וקמא יו"ד ס' פ"ג, וע' פת"ת ס' כ"ח סק"ח. וראה ס' האשכול הל' שחיטת חולין ס"י ושו"ת משנה הלכות ח"י ספ"ב, גליון מהרש"א יו"ד ס' ק"ז סק"ד ועוד.
¹⁴ ע' שיטמ"ק ב"ב כ' בשם הר"י מיגש, רמב"ן בראשית א' כ"ט, חינוך מצוה תנ"א ועוד.
¹⁵ נו"ב תניינא יו"ד ס' י'.
¹⁶ שם.
¹⁷ או"ח ס' שט"ז ב'.
¹⁸ ע' פמ"ג סוף הקדמתו להל' שחיטה.
¹⁹ מורה נבוכים ח"ג פמ"ח, רמב"ן בראשית א' ט', חינוך מצוה תנ"א. וע' ראשית חכמה שער הקדושה ס' ט"ז.
²⁰ שו"ת שמש צדקה ס' י"ח.
²¹ שו"ת גינת ורדים או"ח כלל ב' ס' ט"ז, ע"ש.
²² ב"מ פה ע"א, דהווא עגלא דהו קא ממטו ליה לשחיטה, אזל תליא לרשיה בכנפיה דרבי, וקא בכי. אמר ליה: זיל, לכך נוצרת. אמרי: הואיל ולא קא מרחם - ליתו עליה יסורין.
²³ גינת ורדים שם.
²⁴ פסחים מ"ט ע"ב.
²⁵ דרישה יו"ד ס' כ"ח סק"ו, שו"ת רדב"ז ח"ב ס' תשצ"ו, וע' גליוני הש"ס שם. וע' אג"מ חו"מ ח"ב ס' מ"ז.
²⁶ שו"ע יו"ד ס' כ"ח סק"ה, וע' דרכ"ת שם.
²⁷ ש"ך שם סק"ו וע' באה"ט.
²⁸ רמ"א או"ח ס' ס"ס רכ"ג, ואפי' בהמה טמאה ע' מג"א ומ"ב שם.
²⁹ שם.
³⁰ ע' שו"ת יד יצחק ח"ג סס"ש"כ, שד"ח ח"ו מע' ברכות ס"ב אות כ', כה"ח ס' כ"ב סקמ"ח.
³¹ פמ"ג משב"ז סס"ב

The Mahari Assad writes that since every Shechita inevitably causes pain to the animal, it is preferable to avoid doing Shechita on Rosh Hashana when we are asking for mercy from Hashem whose compassion extends to all living beings³². One should also not slaughter an animal in the presence of other animals, since this causes them undue distress³³. The Maharsham states that one who wishes to act piously should even slaughter non-kosher animals with Shechita since it is less painful³⁴. This concept is not brought by the other Poskim.

Zoos, Pets, etc. The Gemara in Avodah Zoro states: דרש ר' שמעון בן פיזי: אשרי האיש אשר לא הלך - לטרטיות ולקרקסיות של עובדי - "R' Shimon Ben Pazi preached: "Praised is one who has not walked in the counsel of the wicked - [this refers to] the theatres and circuses of the non-Jews, "And has not stood in the path of sinners" - this refers to one who has not gone to the Kongyon³⁵. Rashi explains that a "Kongyon" is a hunting event using hunting dogs. The Or Zaruah warns that anyone that attends such an event will not witness the Kongyon - hunting of the Leviathan and the Wild Bull in the World To Come³⁶. The Acharonim explain that this would include any event whose purpose is to hunt or otherwise promote animal torment. The special Bracha made when one sees an elephant or a monkey (משנה הבריות) is only if one happens to see them. One should not go to a place where they are hunted to make the Bracha³⁷. The prohibition against visiting Kongyonos does not apply to visiting a zoo where the animals are cared for and not tormented. In fact many Acharonim mention their visit to a zoo³⁸. The Steipler Gaon reportedly took his children to the zoo in order to teach them the Bracha on the monkeys³⁹.

It is permitted to cause pain to animals for the purpose of medical experimentation, if it will lead to a discovery or advancement that is beneficial to humans⁴⁰. One may not overload his animals or hit them excessively to make them run⁴¹. The Pri Megadim rules that it is forbidden because of צער בעלי חיים to clip a bird's wings to prevent it from flying away. If one uses a non-Jewish veterinarian it is permitted⁴². Some Acharonim argue that it is permissible for a Jew to do as well⁴³. Notably, there are many Halachic and Kabbalistic problems with raising birds in ones home, see notes⁴⁴.

One is permitted to kill insects that are disturbing to people, especially if they can harm people⁴⁵. One should preferably not kill them with poison that will cause them extended pain before they die, rather he should kill them immediately⁴⁶. R' Elyashiv paskens that this preference of instant death over poison is only if it is just as convenient either way. If it is inconvenient to kill them in a less painful fashion one is not required to do so⁴⁷. Some Acharonim say that צער בעלי חיים only applies to animals that serve some purpose to humans, insects and rodents that do not fall into this category are not included in the prohibition of צער בעלי חיים at all⁴⁸. (Obviously, it is still a cruel trait to cause them pain unnecessarily.) R' Moshe Feinstein זצ"ל writes that one should preferably not kill insects with his hands when possible since this can breed a trait of cruelty within the person⁴⁹. May we merit instilling in ourselves the compassionate trait of Hashem - ורחמיו על כל מעשיו.

גוט שבת,
מאיר הלוי הלמן
פעיה"ק תובב"א

³² שו"ת יהודה יעלה ח"א או"ח ס' קס"ד.
³³ ד' אפרים יו"ד ס' ל"ו, וע' אזניים לתורה ויקרא י"ד ו'.
³⁴ ע' דע"ת יו"ד ס' כ"ח סקט"ו.
³⁵ ע"ז י"ח ע"ב.
³⁶ או"ז הל' שבת ס' פ"ג אות י"ז, וע' מד"ר שמיני פי"ג ג', והוא בד"מ וברמ"א או"ח ס' שט"ז ס"ב.
³⁷ שו"ת פרי השדה ח"ג ס' קע"ג.
³⁸ ע' חיד"א מדבר קדמות מע' ב' אות כ"ב, נימוקי או"ח ס' רכ"ה.
³⁹ ארחות רבינו ח"א עמ' צ"א. וראה יבי"א ח"ד או"ח ס"כ, ושו"ת להורות נתן ח"ד ס' ס"ח.
⁴⁰ שו"ת עטרת פז ח"א כרך ג' חו"מ ס"ט.
⁴¹ ס' חסידים ס' מ"ד, קצש"ע ס' קצ"א ס"ב, רבינו אפרים עה"ת במדבר כ"ב ל"ב. ולענין הנחת משא כבד ע' תרוה"ד ח"ב ס' ק"ה דמותר, אולם יעויין בשו"ת יד הלוי (למו"ז הגר"ד מוירצברג זצ"ל) ח"א יו"ד ס' קצ"ו שהקשה על ראיתו.
⁴² פמ"ג או"ח ס' תס"ח משב"ז סק"ב.
⁴³ הגהת זר זהב על איו"ה ס' נ"ט דין ל"ו סקי"ז.
⁴⁴ ע' שו"ת באר משה ח"ב ס' כ"ח ובשו"ת אפרקסא דעניא ס' קס"ג בענין עופות המשוררים ע"פ הגמ' סוטה מ"ח, זמרא בביתא חרבא בביתא ובמהרש"א שם. וע"ע ואסור משום חורבן ביהמ"ק. וע' שו"ת בצל החכמה ח"ה ס' ל"ה, שו"ת מהר"ח או"ז ס' פ"א ופ"ב. וע' ס' נגיד מצוה ריש ח"ב דע"פ קבלה אין לגדל תורים ובנ"י, והמגדלם או ימותו בניו או לא יהא לו זרע ח"ו. וע' מש"כ בזה בשו"ת הנ"ל. וע' ס' חסידים ס' תתל"ח על הפסוק "כי יש דברים הרבה מרבים הבל" דקאי על מגדלי עופות לני וקילוס. וע' קה"ר פ"ו י"א.
⁴⁵ שאילת יעבץ ח"א ס' ק"י, שו"ת זבחי צדק החדשות ס"א, ס' נפש כל חי עמ' ע"ג בשם הגר"ש אלישיב שליט"א.
⁴⁶ ע' יש"ש ב"ק פ"י ס' ל"ז, בי"ח יו"ד ס' קט"ז, ושו"ת יהודה יעלה יו"ד ס' קס"ד, וע' תוס' אנשי שם תרומות פ"ח מ"ה בענין להשקותם מים מגולין. וראה מש"כ בזה מו"ז בשו"ת יד הלוי אה"ע ס' ס"א וחו"מ ס"י.
⁴⁷ ס' נפש כל חי עמ' ע"ו בשמו.
⁴⁸ שאילת יעבץ שם.
⁴⁹ אג"מ חו"מ ח"ב ס' מ"ז.