

THE BAIS HAVAAD

HALACHA JOURNAL

Family, Business, and Jewish Life through the Prism of Halacha



A PUBLICATION OF THE
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Dedicated in loving memory of
HaRav Yosef Grossman zt"l

VOLUME 5784 • ISSUE XXXII • PARSHAS BEHAR



DARCHEI NOEM: MAY ANIMALS BE HURT FOR HUMAN BENEFIT?

Adapted from the writings of Dayan Yitzhak Grossman

In our previous article, addressing South Dakota Gov. Kristi Noem's killing of her dog, we discussed the position of the Trumas Hadeshen that although there is no prohibition of *tza'ar ba'alei chaim* (causing suffering to living creatures) if one acts to fulfill human needs, it is nevertheless customary to avoid certain practices that inflict pain on animals for human benefit, because the *pasuk* in Tehillim says that Hashem's "mercies are on all His works." We noted the dispute between the Chelkas Yaakov and the Sridei Eish about whether this ideal of avoiding cruelty to animals extends to medical research that inflicts pain on animals.

ADDITIONAL PERSPECTIVES

R' Eliezer Yehudah Waldenberg (the Tzitz Eliezer) was asked about experimentation on animals for the purpose of obtaining medical knowledge to benefit people. He was specifically asked about a test that required removing the animals' eyes and subsequently killing them. He responded that this is permitted. He maintains that for various reasons, it is not even a matter of pious conduct

(*midas chasidus*) to refrain from carrying out such experiments, but he recommends that ideally they should be performed with local anesthesia to avoid pain (which he believes is the preferred method for the procedure in question anyhow).¹

R' Yitzchak Isaac Liebes (the Bais Avi) also unequivocally permits medical experimentation on animals for the purpose of helping sick people.²

The one major halachic authority who dissents from the general consensus permitting such experimentation is R' Eliyahu Kalatzkin, the great Polish gaon of a century ago. The following remarkable passage appears in the course of a lengthy *teshuvah* he wrote on the topic of *tza'ar ba'alei chaim*:

It is also not clear that it is permitted to cause a living creature to suffer such terrible pain for the sake of examinations and experiments, and we only find that this was permitted for the sake of healing—not for the sake of examination,

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¹ Shu"t Tzitz Eliezer cheilek 14 siman 68.

² Shu"t Beis Avi cheilek 3 siman 144. Cf. Shu"t Be'er Moshe cheilek 8 siman 104.



PARSHAS BEHAR

MEAT PACKING

Excerpted and adapted from a shiur by Dayan Yitzhak Grossman

When you make a sale to your fellow or make a purchase from the hand of your fellow, do not aggrieve one another.

Vayikra 25:14

The Mishnah in Bava Metzia says that this prohibition, *al tonu*, refers to *ona'as mamon* (monetary fraud). The Gemara offers examples of practices forbidden to sellers: diluting wine, making an animal look to be of higher quality than it is, and soaking meat in water to make it look fresher than it is. The seller may only do these things if he informs the buyer of the item's true condition. The Gemara says that wine may be diluted where it is the standard practice to sell it that way.

The Sma says the standard-practice dispensation also applies to the other modifications the Gemara mentions. The Shulchan Aruch HaRav cites the Sma but says that *shomer nafsho yirchak mizeh* (one who guards his soul should distance himself from this), because a buyer may still be misled by the item's appearance.

The Divrei Malkiel goes further than the Shulchan Aruch HaRav and rules that a seller may not soak meat even where that is common practice. He says this differs from diluting wine,

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Q&A from the
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Cracked Wheat

Q May a very small roll be used for *lechem mishneh*? What about a challah or matzah with a partial break?

A The mitzvah of *lechem mishneh* is fulfilled by reciting *hamotzi* on two challoos or rolls that are *shaleim* (complete; O.C. 274:1). The minimum size is a *kezayis*, but it should preferably be a *kebeitzah* (Teshuvos Vehanhagos 1:258). Some authorities allow smaller rolls, but that view should only be relied on if no alternative is available (see Kaf Hachaim ibid. 8).

If a challah has an incomplete break—i.e., the parts are still attached—if when you lift the smaller segment the whole challah comes along without breaking, it is considered

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which is only a matter of possibility, that perhaps some benefit to medical science will emerge from it. Among the scholars of the nations there are also those who are upset and complain about the acts of cruelty that the investigators perform in their examinations of the bodies of living creatures, and they founded the Society of Anti-Vivisectionists.

This question was discussed at the conference of great medical scholars in London in the year 5641 (the International Medical Congress of 1881), as I read its proceedings in the English periodical *The Times* of August 5 (the weekly edition). Professor [Rudolf] Virchow³ of Berlin delivered a speech before the gathering asserting that there is no injustice and cruelty in this, and as long as man is permitted to kill a living creature to eat its flesh, he has justification to perform examinations of the bodies of living creatures. For only with the aid of those examinations will the science of medicine and physiology make giant leaps forward in our days...

But despite all this, we cannot decide whether according to the laws of our holy Torah permission is granted to a Jewish physician to involve himself in those examinations of the bodies of living creatures. For there is no comparison between the pain of shechitah and death, which last only a few moments, and the terrible pain that a living creature suffers for hours and days from those examinations...⁴

THE PROBLEM OF THE WHITE MULES

There are two Gemara passages that seem to indicate that the Torah's ideal of compassion toward animals extends even to those that are a nuisance or even a danger to humans, at least in certain circumstances. Curiously, these passages both involve R' Yehudah Hanasi. We previously discussed the account of his conduct toward the weeping calf and the young weasels, and we will now discuss the other Gemara:

When R' Pinchas ben Ya'ir came (to dine with R' Yehudah Hanasi), it so happened that he arrived through an entrance where white mules were standing. He said, "The Angel of Death is in this one's house (because white mules kick and inflict wounds that never heal—Rashi), and I will dine with him!" Rabbi heard and went out toward him...Rabbi said, "I will cut their hooves (so they can't harm anyone)." R' Pinchas ben Ya'ir said, "There is *tza'ar ba'alei chaim*." Rabbi said, "I will kill them." R' Pinchas ben Ya'ir said, "There is *bal tashchis* (the prohibition to destroy wantonly)."⁵

This account is quite puzzling. If white mules are dangerous to humans, why would the prohibition against *tza'ar ba'alei chaim* forbid taking reasonable measures to neutralize the threat, given the rule established by the Trumas Hadeshen and the Shvus Yaakov that there is no prohibition of *tza'ar ba'alei chaim* if one acts to meet human needs?⁶ *Poskim* offer a variety of approaches:

- The Trumas Hadeshen explains that the danger posed by white mules is remote (*la shechicha*), and R' Pinchas ben Ya'ir only objected to their presence due to his great piety. (But there was no true need to neutralize the mules, so the prohibition against *tza'ar ba'alei chaim* remained in force.)⁷ Similarly, R' Yitzchak Blazer (also known as R' Itzeleh Peterberger) explains that since the probability of harm was remote and R' Pinchas ben Ya'ir's objection was only a matter of *midas chasidus*, the prohibitions of *tza'ar ba'alei chaim* and *bal tashchis* remained in force, because removing the mules' hooves or killing them was considered completely unnecessary.⁸
- The Shvus Yaakov understands that it actually was permitted for R' Yehudah Hanasi to remove the mules' hooves or kill them. R' Pinchas ben Ya'ir, however, was displeased with R' Yehudah Hanasi for his *prior* laxity in maintaining such dangerous animals in his home, and R' Yehudah Hanasi was proposing ways in which he might now atone for his earlier failing. R' Pinchas ben Ya'ir, due to his great piety, refused to accept and agree to dine with R' Yehudah Hanasi, because although the proposed acts were permitted, neither would be entirely free of impropriety.⁹
- The Chelkas Yaakov explains that removing the hooves was indeed permitted, but R' Pinchas ben Ya'ir, due to his piety, objected to it out of a desire to avoid cruelty to animals even when it isn't prohibited. (This idea is consistent with his position—in opposition to that of the Sridei Eish—that medical experimentation on animals should be avoided as a matter of *midas chasidus*, despite the fact that the welfare of other people, not only one's own, is at stake.)¹⁰

We previously cited the Maharshal:

One who has a dog in his home that is causing him harm and ruining the food in his home, even if it does not bite, is permitted to give it poison and does not thus violate *tza'ar ba'alei chaim*.

In light of the above analysis, there are a number of ways to reconcile the Maharshal's ruling with R' Pinchas ben Ya'ir's declaration that removing a mule's hooves constitutes *tza'ar ba'alei chaim*:

- According to the Trumas Hadeshen and R' Yitzchak Blazer, R' Pinchas ben Ya'ir was only concerned for *tza'ar ba'alei chaim* because the danger posed by the mules was remote. In the Maharshal's case, it was already established that the dog was harmful.
- According to the Shvus Yaakov, R' Pinchas ben Ya'ir didn't mean to assert a general problem with removing the hooves of mules. He was only rejecting as insufficient R' Yehudah Hanasi's proposal to do so to atone for his previous laxity.

⁷ Trumas Hadeshen *psakim uchosvim siman* 105.
⁸ Shu"t Pri Yitzchak *chelek* 1 *siman* 24. Cf. Shu"t Sho'eil Umeishiv *tinanya chelek* 3 *siman* 65.
⁹ Shu"t Shvus Yaakov *chelek* 3 *siman* 71.
¹⁰ Shu"t Chelkas Yaakov C.M. *siman* 34 end of *os*.
 The Chelkas Yaakov continues with the assertion that the Trumas Hadeshen "actually brings a proof from this Gemara that it is prohibited due to cruelty." This seems to misconstrue the Trumas Hadeshen, who actually cites this passage as a contradiction to his initial and primary point, that *tza'ar ba'alei chaim* does not apply when human needs are at stake (and reconciles the contradiction as above in the text, that because the danger was remote, human needs were not actually considered to be at stake), rather than as a support of his secondary and concluding point, that even when the prohibition of *tza'ar ba'alei chaim* does not apply, cruelty to animals should still be avoided. The Trumas Hadeshen seems to understand that in the case of the white mules, because the danger was remote, the actual prohibition of *tza'ar ba'alei chaim* remained in force, not just the pious custom to refrain from cruelty to animals even where permitted.
 Cf. R' Gedaliah Aharon Rabinowitz, *Bedin Achrayav Hamad'an Lesotzo Mechkar*, Halacha Urefuah *keresh* 4 p. 221.

³ Dr. Virchow is known as the father of modern pathology. Wikipedia contributors. Rudolf Virchow. In Wikipedia, The Free Encyclopedia. https://en.wikipedia.org/w/index.php?title=Rudolf_Virchow&oldid=1224424390.
⁴ Imrei Shefer (Kalatzkin) *siman* 34 *os* 16. Cf. Shu"t Ateres Paz *chelek* 1 *keresh* 3 C.M. *siman* 9.
⁵ Chulin 7b.
⁶ A similar question can be asked with respect to the prohibition of *bal tashchis*.

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because in that case, every buyer will know precisely how much

water is present based upon the custom, but a buyer cannot discern

the true quality of soaked meat.¹

¹ R' Moshe Feinstein appears to take the side of the Sma, permitting butchers to soak liver in blood to give it a fresher appearance if that is standard practice, though his analysis is slightly more complex than the Sma's.

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shaleim (Chasam Sofer *teshuvah* 43).

If a piece breaks off, the challah is no longer *shaleim*. But the Chacham Tzvi (62, cited by Sha'arei Teshuvah *ibid.*) cites the Rosh, who says that a loss of 1/48 or less is insignificant and the challah retains its *shaleim* status. The Aruch Hashulchan (*ibid.* 5), however, requires perfect *shleimus*. R' Shlomo Zalman Auerbach sides with the Chacham Tzvi and allows a small piece to be missing, so long as the general appearance of the challah is *shaleim* (Shmiras Shabbos Kehilchasah 55 note 24).



A challah that is broken into two may be repaired by reattaching the broken segments (e.g., with a toothpick), provided the repair is seamless and the challah looks whole (O.C. 168:2), and the repair may be done on Shabbos (Shmiras Shabbos Kehilchasah 55:10). This solution should not be relied upon if the challah is broken into three or more pieces (*ibid.* note 36).

Two challos that became attached in the oven should be carefully pulled apart; the damaged edge doesn't affect the challah's *shleimus* (Machatzis Hashekel 274:1).

If no whole challos are available, use broken pieces of at least a *kezayis* (Mishnah Brurah 274:2). In order to fulfill the mitzvah of *lechem mishneh*, use two (Meishiv Davar 1:21).

- R' Yechezkel Landau (the Noda Bihudah) suggests that although *tza'ar ba'alei chaim* might be overridden by concern about a public menace, R' Pinchas ben Ya'ir was still unwilling to dine with someone who was forced to violate the prohibition.¹¹ (This is difficult to understand: Would R' Pinchas ben Ya'ir have been unwilling to dine with someone who had to violate Shabbos to save a life?)
- Some authorities maintain that *tza'ar ba'alei chaim* does not forbid *killing* animals, only causing them pain.¹² According to this view, there is no contradiction between R' Pinchas ben Ya'ir forbidding the removal of hooves and the Maharshal allowing the dog to be poisoned.¹³

¹¹ Shu"t Noda Bihudah *kama* Y.D. *siman* 83.
¹² One of the main proofs advanced for this distinction is actually from the account of the white mules: Even after R' Pinchas ben Ya'ir objected to the removal of their hooves due to *tza'ar ba'alei chaim*, R' Yehudah Hanasi proceeded to propose killing them. See Shu"t Avodas Hacheshuvim *siman* 13; Shu"t Noda Bihudah *ibid.* and *tinanya* Y.D. *siman* 10; Sho'eil Umeishiv *ibid.*; Pardes Yossef, *Toldos os* 33; Chelkas Yaakov *ibid.* *siman* 34 *os* 4 (Rav Breish) and *siman* 35 *os* 4 (R' Yechiel Yaakov Weinberg); Mishneh Halachos *chelek* 10 *siman* 82; Yechiel Nachaliash 18:53.
¹³ Chelkas Yaakov *ibid.* footnote on p. 317.



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