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CANINE HARA: MAY ANIMALS BE HURT FOR HUMAN BENEFIT?

Adapted from the writings of Dayan Yitzhak Grossman

The Guardian reports:

Kristi Noem, a strong contender to be named running mate to Donald Trump, the presumptive Republican nominee, has...admitted to killing a dog.

"Cricket was a wirehair pointer, about 14 months old," the South Dakota governor writes in a new book, adding that the dog, a female, had an "aggressive personality" and needed to be trained to be used for hunting pheasant...

She includes her story about the ill-fated Cricket, she says, to illustrate her willingness, in politics as well as in South Dakota life, to do anything "difficult, messy and ugly" if it simply needs to be done...

On the way home after a pheasant hunt, as Noem stopped to talk to a local family, Cricket escaped Noem's truck and attacked the family's chickens, "grabbing one chicken at a time, crunching it to death with one bite, then dropping it to attack another."

Cricket the untrainable dog, Noem writes, behaved like "a trained assassin"...

"I hated that dog," Noem writes, adding that Cricket had proved herself "untrainable," "dangerous to anyone she came in contact with," and "less than worthless...as a hunting dog." "At that moment," Noem says, "I realized I had to put her down."

Noem, who also represented her state in Congress for eight years, got her gun, then led Cricket to a gravel pit.

"It was not a pleasant job," she writes, "but it had to be done. And after it was over, I realized another unpleasant job needed to be done."

Incredibly, Noem's tale of slaughter is not finished. Her family, she writes, also owned a male goat that was "nasty and mean", because it had not been castrated. Furthermore, the goat smelled "disgusting, musky, rancid" and "loved to chase" Noem's children, knocking them down and ruining their clothes.

Noem decided to kill the unnamed goat the same way she had just killed Cricket the dog. But though she "dragged him to a gravel pit," the goat

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PARSHAS EMOR

PROFANING WITH SPEECH

Excerpted and adapted from a shiur by Dayan Yehoshua Grunwald

You shall not desecrate My holy Name, rather I should be sanctified among the Bnei Yisrael; I am Hashem Who sanctifies you.

Vayikra 22:32

The Rambam (Sefer Hamitzvos, *Lavin* 63) writes that the prohibition of chillul Hashem can be violated in three ways, one of which is committing an *aveirah* solely to rebel against Hashem, without receiving any benefit. The Rambam infers this from the *pasuk* that says taking a *shvuas sheker* violates chillul Hashem (Vayikra 19:12), which he says is because no physical benefit is derived from this *aveirah*.

Sefer Chafetz Chaim (in the *Psichah*) derives from this that speaking *lashon hara* also violates chillul Hashem. He explains that the Gemara in Ta'anis says that at the end of days, the animals will ask the snake why it ate other animals, given that whatever the snake eats tastes to it like dirt, and it will reply that one who speaks *lashon hara* also derives no benefit. The Chafetz Chaim says that *lashon hara* is therefore likewise a chillul Hashem according to the Rambam. He explains further in the Be'er Mayim Chaim that one of the cases of *shvuas sheker* is swearing falsely in *bais din* to defend against a financial claim, even though in this case he derives financial benefit from the *aveirah*, so the Rambam must mean that chillul Hashem is violated if no *physical* benefit is obtained.

R' Yitzhak Hutner maintains that *lashon hara* (continued on page 2)

Does Texting Count?

Q After I texted my wife a *sfirah* reminder, "Today is the 19th day," I realized that I hadn't yet counted. May I still count tonight with a *bracha*?

A The Shulchan Aruch (O.C. 489:4) says that someone who is asked what day in the *omer* it is and responds, may no longer count with a *bracha* that night, because he already fulfilled the mitzvah with his reply. The Mishnah Brurah (ibid. 21) adds that this is so even though he didn't add "of the *omer*." He still must count, because he didn't have intent to fulfill the mitzvah, but he may not make a *bracha*, because some hold that mitzvos may be fulfilled even without intent to fulfill them (M.B. ibid. 22).

If one says, "It is the eighth day," without saying "today," he may yet count with a *bracha*, because that word is essential for the mitzvah (M.B. ibid. 20).

The Mishnah Brurah (ibid. 22) rules that this issue is only relevant during the first six days of the *omer*, before (continued on page 2)

Q&A from the
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jumped as she shot and therefore survived the wound. Noem says she went back to her truck, retrieved another shell, then "hurried back to the gravel pit and put him down."¹

Noem has been harshly criticized for her killing of Cricket,² but she remains unrepentant:

This was a dangerous animal that was killing livestock and attacking people. And I had little children at the time, our operation had many kids running around and people in interaction with the public. And I made a difficult choice... Would you make a choice between your children or a dangerous animal? And I think I would ask everybody in the country to put themselves in that situation...As a mom, I made a choice between protecting my children, and protecting them from a dangerous animal that was killing livestock and attacking people...³

R' Yair Hoffman agrees with Noem's critics:

Americans were, of course, horrified. And justifiably so.

There are a number of reasons for this. Firstly, the Talmud in Shabbos enjoins us to emulate the Creator. Just as He is merciful, you, too, must be merciful. Just as He is gracious, so, too, must you be gracious. Shooting your dog is neither merciful nor gracious. There are other verses as well. In Ashrei we recite three times daily, "And His mercy extends upon all His creations." This is not reflecting Divine mercy. She could have given the dog away or she could have sent the dog for further training.

Rav Hoffman proceeds to discuss various sources in our mesorah regarding the permissibility of raising dogs in the first place, and he ultimately concludes:

A further point is that there is a mitzvah to express gratitude—*hakaras hatov*—to dogs, because they did not bark when we exited Mitzrayim. The gentile world should likewise express such gratitude, because of the friendship that dogs extend toward people. If former president Trump wishes to pick a candidate for VP, he should find someone else.⁴

The obvious rejoinder to the charge that killing a dog that had just killed a number of chickens apparently out of sheer bloodlust was "neither merciful nor gracious" is, neither merciful nor gracious to whom?

Indeed, R' Shlomo Luria (the Maharshah), discussing a case quite similar to ours, unequivocally endorses the killing of a dog that is causing harm:

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*.⁵

In this article and a follow-up, however, we discuss two precedents in the Gemara that do seem to indicate that the Torah's ideal of compassion toward animals

extends even to animals that are nuisances or even dangerous to people, at least in certain circumstances.

FROM CALLOUSNESS TO COMPASSION

The Gemara relates:

But the sufferings of Rebbi (R' Yehudah Hanasi) came as the result of an event and left as a result of an event.

"They came as the result of an event"—what was this event? There was once this calf that they were leading to slaughter. It went and hung its head among the folds of Rebbi's garment and it cried. Rebbi told it, "Go; for this you were created." They said (in *Shamayim*), "Since he does not show mercy, let suffering come upon him."

"And they left as a result of an event": One day, Rebbi's maidservant was sweeping the house. There was a litter of baby weasels that had been cast upon the floor, and she was sweeping them up. Rebbi told her, "Leave them be. It is written, 'And his mercy is upon all his creations.'" They said (in *Shamayim*), "Since he shows mercy, let us show mercy to him."⁷

CRUELTY TO ANIMALS

In a seminal ruling on the topic of causing pain to animals, R' Yisrael Isserlin (the Trumas Hadeshen) rules that although there is no prohibition of *tza'ar ba'alei chaim* if one acts in furtherance of his needs and purposes, it is nevertheless common custom to avoid certain practices that inflict pain upon animals for human benefit, and he suggests that this concern derives from the above account:

It is possible that the reason is that people do not wish to behave cruelly toward any creatures, because they are afraid lest they receive punishment for doing so, as we find in the above account...that R' Yehudah Hanasi said "Go; for this you were created," and although it was absolutely permitted to slaughter the calf for the purpose of eating it, he was nevertheless punished and received suffering for doing so.⁸

This custom of stringency is codified by the Rama:

Anything that is necessary for medical treatment or for other purposes is not subject to *tza'ar ba'alei chaim*, and it is accordingly permitted to pluck feathers from live geese and there is no concern for *tza'ar ba'alei chaim*, but people nevertheless avoid doing so because it constitutes cruelty.⁹

ANIMAL TESTING AND VIVISECTION

Various later authorities have considered the applicability of this concern—about behaving cruelly toward animals even when doing so will enhance human welfare—to medical experimentation on live animals. The issue was first raised by R' Yaakov Reischer (the Shvus Yaakov) with regard to testing a potentially lethal medication by administering it to live animals. He allows it and maintains that the Trumas Hadeshen's concern is limited to cases like plucking feathers from a live bird, which causes it direct and immediate severe pain, as opposed to medication, which causes no immediate suffering but may result in subsequent illness and pain. The latter is entirely permitted when done for the purpose of the development of medical treatments for people.¹⁰

It is not chillul Hashem, though the benefit incurred by the speaker may be comparable.

Hashem despite the lack of physical benefit due to the severity of swearing falsely in Hashem's Name. Because *lashon hara* is less severe,

does not violate chillul Hashem. He says *shvuas sheker* constitutes chillul

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weeks are counted. From the seventh day on, the mitzvah requires counting the weeks, so "Today is the nineteenth day" is insufficient.

The notion of fulfilling the mitzvah of *sfiras ha'omer* via texting is highly dubious. R' Akiva Eiger (Teshuvos 1:29) discusses at length whether one can fulfill the mitzvah through writing, but he ends without a conclusive ruling. Other *poskim* conclude that counting must be done verbally (see Sha'arei Teshuvah 489:6). According to that view, you may still make the *bracha*.

The Chasam Sofer (cited in Ksav Sofer Y.D. 106) argues that *sfiras ha'omer* can be fulfilled in writing, because counting is not reciting but tallying, and that can be done in any manner. One can suggest that according to his view, texting is also a valid method of *sfiras ha'omer*, so a *bracha* may not be recited after texting the count, even before day 7.

In practice, because many *poskim* assume that writing is ineffective for *sfiras*, and moreover it is questionable whether digital writing is even writing, you may make a *bracha* when you subsequently count verbally.



RAV ARYEH FINKEL

The implication of the Shvus Yaakov's reasoning is that animal testing that does cause immediate suffering might indeed be a problem even when developing medicine. This is indeed the position of R' Yaakov Breisch (the Chelkas Yaakov):

As a matter of strict halacha (*al pi din*) it is certainly permitted to cause *tza'ar ba'alei chaim* with experiments for the purpose of scientific investigation and for medical science—but as a matter of *chassidus*, to avoid the character trait of cruelty, it is certainly prohibited...¹¹

R' Yechiel Yaakov Weinberg (the Sridei Eish) disagrees, maintaining that the Trumas Hadeshen's concern is completely inapplicable to animal testing for medical research:

In my humble opinion, there is not even a *midas chasidus* to refrain from such research, for *midas chasidus* applies only where it affects only oneself, and a person has the right to be stringent on his own account, but not where it affects others. And what did you see to make you think that *tza'ar ba'alei chaim* is a greater consideration than the *tza'ar* of the sick people that they may perhaps be able to help?...And therefore, in my humble opinion, we must permit physicians to conduct experiments without any equivocation or doubt.¹²

In a follow-up article, we shall, *iy"H*, consider some additional halachic perspectives on the Trumas Hadeshen's view and its applicability to animal testing, as well as a second Gemara that seems to imply that *tza'ar ba'alei chaim* should be avoided even when this may put human lives at risk.

¹ Martin Pengelly, Trump VP contender Kristi Noem writes of killing dog—and goat—in new book. The Guardian. <https://www.theguardian.com/books/2024/apr/26/trump-kristi-noem-shot-dog-and-goat-book>.

² See, e.g., here.

³ Transcript: South Dakota Gov. Kristi Noem on "Face the Nation," May 5, 2024, CBS News. <https://www.cbsnews.com/news/kristi-noem-south-dakota-governor-face-the-nation-transcript-05-05-2024/>. Cf. here.

⁴ R' Yair Hoffman, Cricket Didn't Have to Die. VIN News. <https://vinnews.com/2024/05/08/cricket-didnt-have-to-die/>.

⁵ Yam Shel Shlomo Bava Kama perek 10 siman 37, cited in Bach Y.D. siman 116 s.v. *Mashkin shenisgalu* and Taz ibid. at the end of the *siman* (at the end of s.k. 6). The Maharshah and the Bach offer different justifications for allowing the dog's killing, but they both agree that it may be killed. In general, there is discussion among the *poskim* as to whether the concern for *tza'ar ba'alei chaim* applies at all to the killing of animals (as opposed to causing them pain); see Shu"t Avodas HaCersumi siman 13, Shu"t Noda Bihudah kama Y.D. siman 83 and *tiryano* Y.D. siman 10, Pardes Yosef, Toldos os. 33.

⁶ (See Rav Hoffman's response, and Dayan Grossman's reply to it, in the web version of this article, at <https://baishavaad.org/canine-hara-may-animals-be-hurt-for-human-benefit/>—Ed.)

⁷ Bava Metzia 85a.

⁸ Trumas Hadeshen, *psakim uchsavim* siman 105. Cf. Shu"t Binyan Tzion siman 108; Shu"t Sheivet Halevi chelek 2 siman 7.

⁹ Hagahos Shulchan Aruch E.H. at the very end of *siman* 5 (sef 14).

¹⁰ Shu"t Shvus Yaakov chelek 3 siman 71.

¹¹ Shu"t Chelkas Yaakov C.H. siman 34 end of ss 6.

¹² Ibid. at the very end of *siman* 35 (and also in Shu"t Sridei Eish E.H. siman 7).

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