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RITUAL SLAUGHTERING AND ETHICAL VALUES:

AN HISTORICAL STUDY OF THE LAWS AND

REQUIREMENTS OF THE RITUAL SLAUGHTERER

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fulfillment of the requirements
for ordination

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DEDICATION

"The Rabbi is not just the man who knows Torah; he is the Torah itself (Rav Tza'ir)."

This work is dedicated to three rabbis who have touched my life by teaching me love for God, Judaism, and the Torah:

To Rabbi Mauricio Pitchon for showing me that my faith interacts with my everyday life and that the more I understand my religion the better I will know myself.

To Rabbi Peter Tarlow for all his help and support so that my dream of becoming a rabbi could become not a dream but a reality.

To Rabbi Michael Arsers for his teachings, insights and sensibility, and for helping me to create goals for my rabbinate.

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"What a rare find is a capable wife! Her worth is far beyond that of rubies..." This thesis is not just the result of my personal effort and work, but also a reflection of my wife's love, support and constant encouragement. She has shared life's journey with me since we met at the age of six. Throughout my five years of rabbinical school she has shown me much love and for that I am grateful.

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I express my eternal gratitude to Roxanne Sukol, who made my thesis a reality. She edited this thesis with dedication and humor. She readily proved to me that my English is usable. Thank you for letting me know you from a different perspective.

It is an incredible feeling to have finished this thesis, not because it had no end, but because I had to struggle not to put it aside to go play with my son Gaddi. Gaddi was the most loving distraction I had faced during my long hours of work. He was always eager to tell me about his Sesame Street friends. I pray that I will be able to dedicate my life to him.

I thank my loving parents, who have had to cope with

the pain of not being with their youngest son as I achieve my goal. I hope that they see in this thesis and in my ordination that their goals as parents have been attained. They will always have a special place in my heart.

DIGEST

The primary intent of the writer of this thesis is to investigate the traditional rabbinic literature, responsa literature and selections from the modern literature in to try to answer the following question: To what extent, if any, are the laws concerning the ritual slaughterer influenced by what are termed "moral and ethical concerns?"

The methodology to be used is the following: As I examine the sources, I translate and analyze the sections of the literature that relate to the ritual slaughterer and his moral and ethical obligations. These different pieces of rabbinical literature are classified according to historical periods, beginning with Mishna and ending with the responsa literature. In the analysis of the traditional rabbinic literature I did not find any concern with the kinds of moral and ethical values that we might assume a ritual slaughterer must have. In the responsa literature, however, modern authorities sought to react to the lack of moral and ethical values in the classic rabbinical literature. By examining the rabbinical literature as a historical event, one might be able to infer that it is concerned with the ethical and moral values associated with ritual slaughtering. This is attributable to the Responsa

literature and its approach to the problem of moral and ethical values of the ritual slaughtering.

In the conclusion, I suggest that the dietary laws, which include ritual slaughtering, can have an important place in our spiritual and religious life, and that it is very important that ritual slaughtering recover its meaning and ethical value. I also propose that the reason for the small percentage of Reform Jews (and Jews in general) observe ritual slaughtering and the dietary laws is that the laws have lost their meaning in our times. Many slaughter houses and ritual slaughterers have been involved in corruption. Of course, this is only one contributing factor to a loss of meaning regarding the ethical and moral values concerning ritual slaughtering and the ritual slaughterer. I suggest that one possible way to restore meaning to these institutions is for the Reform movement to offer to those who wish to observe the dietary laws and ritual slaughtering a religious process in which honesty and ethical values are the primary, and perhaps only, goal.

TABLE OF CONTENTS

Introduction.....	I
Chapter 1. Traditional and Talmudic Sources:	
Introduction to the <u>halachik</u> materials.....	V
Mishna.....	1
Tosefta.....	2
Talmud.....	9
Mishnetora.....	24
Tur.....	35
Shulchan Aruch.....	48
Chapter 2. Responsa Literature:	
Introduction to the Responsa Literature.....	55
Responsum of Chatam Sofer <u>Choshen Mishpat</u> # 8.....	57
Responsum of Chatam Sofer <u>Choshen Mishpat</u> # 176....	61
Responsum of Orion Telitai # 83.....	65
Conclusion on the Responsa Literature.....	72
Chapter 3.	
Some Moral and Ethical Considerations.....	76
Chapter 4.	
Conclusions.....	86
Notes.....	93
Bibliography.....	97

INTRODUCTION

The subject of ritual slaughter for this is a matter with personal significance for the writer. For many years I believed that the dietary laws, and particularly ritual slaughtering, were a fundamental aspect of the Jewish experience. For more than two years my wife and I kept a strictly kosher home, keeping the dietary laws with devotion and real conviction of their religious and spiritual value. At one point, we started to question the reasons for having a ritual slaughtering process and a ritual slaughterer. What are the facts that make the actual taking of a life a ritual? Is it the way in which the animal is slaughtered? Or perhaps certain characteristics of the slaughterer transformed slaughtering into "ritual" slaughtering?

All these questions created a feeling of uncertainty as to the meaning of kashrut in the modern age. Each time we bought a piece of kosher meat we had to pay two and sometimes three times the price of a comparable piece of non-kosher meat. I needed to find out what our sages expected from a person who makes his living by slaughtering animals. I wanted to investigate some of the fraud that the kosher foods industry has suffered. My original goal was to propose changes for the kosher foods industry. Yet, having

II

completed this thesis, I have come to the conclusion that the kosher foods industry requires sweeping changes, the depth of which are outside of the scope of this work.

Above all, this thesis has given me a tremendous opportunity to study our texts and discover a whole new way of thinking about the way I relate to my tradition.

The dietary laws represent an important element in the life of any Jew. This is true for two major reasons: either a particular Jew has decided to observe the laws of kashrut or has decided not to. Most Jews have a partial knowledge of the dietary laws that a traditional Jew observes and of which animals may be eaten according to our tradition. It is not important if this particular Jew observes the dietary laws or not. He knows that they are a consequence of different events in the history of the Jewish people. There have been many explanations for the dietary laws though none are offered in the Bible.

Tradition has said that God chose the Jews as a holy people "...therefore you shall make yourselves holy, and be holy for I am holy..." (Lev. 11:44). Being holy is, for traditional Judaism, partially represented in what the Jewish people eat. It is as if by observing the dietary laws and, therefore, ritual slaughtering, that the Jewish people can achieve part of their holiness and share in the sanctity of God. This traditional approach has not

III

convinced the whole Jewish population. Observance of the dietary laws present a difficulty in our days. It presents not only an economical but a social difficulty as well. How can anyone force someone else to serve kosher meat if that person is not convinced of the importance of such a practice?

If the process of ritual slaughtering proves to be less painful than the regular methods of slaughtering, and the ritual slaughterer changes his commercial interests toward ritual slaughtering, then there may be a chance that more Jews will find meaning in these "new" but always spiritual regulations and, thus, choose to observe the dietary laws.

This thesis is a study and analysis of the Talmudic, rabbinic, responsa, and modern religious literature concerning the ritual slaughterer and his moral and religious obligations. The work begins with the Mishna and moves historically to the period of the Responsa. It includes an in-depth analysis of the Tosefta, Talmud, Mishne Tora, Tur, and Shulchan Aruch. Three responsa are examined for the patterns followed by the rabbis for judging issues where the ritual slaughterer does not meet the moral standards set by the community. The study is oriented toward examination of the character of the ritual slaughterer.

A brief presentation of the modern literature is made

IV

concerning ritual slaughtering and the ritual slaughterer, and the Reform perspective on the dietary laws.

In chapter 4, Conclusions, I will propose that the kosher foods industry must establish new goals and values the ritual slaughtering.

In its beginnings, the Reform movement was highly concerned with offering to its members a religion which placed importance on those rituals that offer or support an ethical system of values. This being the case, I believe that we should take some responsibility for these changes.

CHAPTER 1

TRADITIONAL AND TALMUDIC SOURCES

People have long believed that the slaughtering ritual, in the Jewish faith, is based primarily on the prevention of cruelty to animals. This implies that the slaughterer must have high moral values in order to carry the responsibility of taking the life of an animal. The author will seek to study these moral and religious characteristics in relevant sections of the halacha that discuss moral and religious aspects of the slaughtering ritual.

Any study of a Jewish ritual must begin by studying the halacha, the law, that governs that particular ritual. The halachik material has a predominant role over the other rabbinic literature because the halacha is usually the result of the agreement of a group of authorities over the course of centuries and not the opinion of an individual sage. Shechita, ritual slaughtering, is no exception. In order to better understand the development of the laws of ritual slaughtering and the ritual slaughterer, it is necessary to do an historical study of the halachik material.

This section of the thesis presents the halachik material, beginning with the Mishna and ending with the Shulchan Aruch. The sources will be analyzed according to

VI

the historical periods in which they built their arguments. The main feature of this analysis will be to discover what each new work adds to the halacha on this issue that we do not find in previous sources. The author will also analyze the problems that each new work addresses or solves. Each section of the halachik material is explained and analyzed by major halachik commentators and by the author. For Jews, especially the Orthodox, the halacha is the symbol of the covenant. As such the halachik material must be seen not only from an historical perspective but also as a modern study of present-day observance among the majority of traditional Jews.

Mishna

The Mishna, the basic codification of the Oral (Rabbinic) Law, is specific in defining who is permitted to perform the slaughtering ritual. It says that the deaf-mute, insane person, minor and idolater may not perform ritual slaughtering. In the analysis of this particular Mishna the intent is to discover the moral or religious obligations of a slaughterer in the Jewish faith. A translation of the text will be followed by an analysis.

Mishna Chullin 1: "All may slaughter, and their slaughtering is valid, with the exception of a deaf-mute, an insane person and a minor, lest they invalidate their slaughtering. And if any of these did slaughter while others are watching them, their slaughtering is valid. The slaughtering of an idolater is considered carrion and it communicates uncleanness by the act of carrying. If a person slaughtered at night, likewise if a blind person slaughtered, the slaughtering is valid. If the person slaughtered on Shabbat or on the Day of Atonement, although that person is guilty of a capital offense, the slaughtering is valid."

This Mishna tries to explain who is permitted to slaughter and who is prohibited from slaughtering. The Mishna is clear when it lists who is prohibited from performing ritual slaughtering (i.e., the deaf-mute, insane person and minor) and the reasons for this. This Mishna

also shows no concern with moral requirements for the ritual slaughterer. There are other Tanaaitic literature, like the Tosefta, that will explain why the idolator is not allowed to perform the ritual slaughtering. This particular Mishna has puzzled our sages because it is possible, as will be shown in the Talmud section, to understand this Mishna and its different sentences to have more than one meaning.

However, another approach has been taken. Epstein suggests that this Mishna and the way in which it was written presents no difficulty and that there is nothing more than its simple meaning.¹ The source of the problem may be in the analysis of the first words: "All may slaughter and their slaughtering is valid..." Why does the Mishna express the same idea twice? If it already said that anyone can slaughter why is it necessary to reassure that the slaughtering will be valid?

This Mishna seems to be a preface for the midrashic explanation that the Tosefta gives in the following section. This is important because the Tosefta is also a Tanaaitic work.

Tosefta

Continuing with the study of the different halachik materials, the Tosefta is another important element in the discovery of the moral and religious behavior required of a Jewish slaughterer. This source is a collection of tannaitic baraitot (traditions and opinions of Tannaim not

embodied in the Mishna as compiled by R. Judah han-Nasi) that basically parrallel the order of the Mishna. The Aramaic word Tosefta means "addition." This work is, therefore, a collection of halacha, halachik midrashim and other traditions that are not included in the Mishna.

As in the Mishna, Tosefta presents no moral or religious requirements except that the slaughterer may not practice idolatry. In this analysis of the Tosefta (Zuckerman's version) a main feature emerges. The Tosefta gives a more complete definition of the word hakol (all) by interpreting the word in a wider sense. In the Tosefta the word afilu (even) seems to include in the category of ritual slaughterer's certain people whom otherwise might be excluded. Even though the Tosefta tries to expand the concept presented by the Mishna much uncertainty remains regarding the religious and moral obligations of the slaughterer. A translation of Tosefta 1-1 will be followed by an analysis.

Tosefta 1-1: "All are allowed to serve as slaughters, even a Samaritan, even an uncircumcised man, and even an apostate.² The act of slaughter done by a min [severe degree of heretic]³ is [considered] idolatry.⁴ (This is the phrase missing from the version of the Tosefta that is printed on the back of the folio editions of the Talmud. The Zukerman's version includes the min). The slaughtering performed by a gentile is considered invalid. And the

slaughtering by an ape is considered invalid as it is said:

'And you shall slaughter... and you shall eat...'

(Deuteronomy 12:21), not what the gentile slaughters, or what the ape slaughters, or that which is slaughtered on account of its own. Where an Israelite slaughtered and a gentile finished, the act is considered invalid. If he [the Jew] slaughtered two or a great part of the two organs [of the throat] his slaughtering is considered valid. Where a gentile slaughtered and the slaughtering is finished by an Israelite, his act is considered valid. If he [the gentile] slaughtered in the animal something that does not make it forbidden and an Israelite came and finished the slaughtering, it may be eaten. An Israelite and a gentile who were holding a knife and slaughtering, even if [the hand of] one was above and the other was below, their slaughtering is considered valid. A blind person who knows how to slaughter, his slaughtering is considered valid. A minor who knows how to slaughter his slaughtering is considered valid."

The remainder of this Tosefta does not deal with the person who is slaughtering but with the instrument that is used to slaughter.

In the Tosefta, the word hakol is understood to include people that may have been excluded, according to the Mishna, from performing shechita². The Tosefta does not explain why the meshumad (lesser degree of heretic) and min

may or may not perform shechita; however, it does explain why the gentile is not allowed to perform shechita. The word hakol is often understood by the rabbis to include something we would otherwise exclude. The reason a gentile may not slaughter is based on Deut. 12:21 "And you [sing.] shall slaughter...and you [sing.] shall eat." The word "you" is the key to realizing that whoever is part of "you" (i.e., from among the people of Israel) may be a slaughterer.

The Tosefta includes and excludes certain Jews from performing ritual slaughtering. Since the biblical verse believed to be the inspiration for the laws of shechita does not mention any specifics,⁶ the Tosefta finds here a good opportunity to reinterpret or create a new halacha. The other level of interpretation is midrashic. This interpretation is used to exclude possible groups of improper slaughterers by a midrashic interpretation of the word hakol. The Midrash excludes the idolater and the ape because only those who are from among "you" may be slaughterers.

The Tosefta divides the mumar (apostate Jew) into two different categories. It uses the following words to describe different kinds of mumarim (Jewish transgressors): a meshumad is allowed to perform shechita and it is considered valid; however, the slaughtering by a min is considered as idolatrous.⁷ The latter class of mumar is

considered the worse of the two. The mumar has not only rejected the faith of Israel but also is an enemy of the Jewish people. The word min is not mentioned in other printed versions of the Tosefta. The fact that not all the versions of the Tosefta have the category of the min, it is impossible to be sure that the Tosefta excludes the min from performing the ritual slaughtering. The Tosefta tries to define who is a Jew or, at least, who is qualified to perform shechita in the Jewish community.

The word min implies a special kind of transgressor. It is not simply the person who may have converted to another religion. The word min has been defined in the Talmud and other halachik works as a Jewish sectarian. The term min has been applied to non-Jews as well. There has been an attempt to associate the minim with a particular sect of Jews. A theory like this cannot be proven since, in various historical periods, the word min has been applied to many different kinds of heretics. "Minim here denote Christians or Gnostic sects... Past enemies of Israel - Pharaoh, Balaam, Amalek. Even with the difficulty that the word min presents, we can, at least, show two different uses of the term. As A. Buechler points out, until the early second century C.E. the word min "denoted heretic Jews" but "in Galilee in the second and third centuries C.E. min denoted non-Jewish sectaries...Bible reading heathens who oppose Judaism and its basic doctrines, antinomian gnostics, or, in

a few cases, heathen Christians who agree with them.²²

The Tosefta may not be aware of all these definitions but it still tries to select and define who is a Jew (i.e., someone who is among the Biblical concept of "you") in relation to the ritual of slaughtering.

The min was penalized by the Rabbis. All other transgressors were allowed to perform shechita, but the min was excluded from the privilege. This version of the Tosefta (Zuckerman) regards the min as an idolater. The gentile and the min may not perform shechita. But the Jew who has converted, the meshumad, and therefore practices idolatry, is not disqualified by the Rabbis. The reason for this might be that a min not only rejects the Jewish faith but also attempts to reinterpret it as if to say that he is the true Israelite. On the other hand the meshumad who converts does not lose his religious status. He may be considered a transgressor of one commandment, but he is not considered an idolater. Even a Jew who has rejected his religion but has not accepted any other is still considered a Jew, and any ritual performed by him is considered valid.

The Tosefta does not give a detailed explanation of the difference between the min and the meshumad. This distinction between the meshumad and min indicated a problem clearly linked to the time period in which the Tosefta was compiled. The Rabbis had to find some way to deal with those who had converted to Christianity. They determined that new

Christians and other apostates were invalidated from all their ritualistic rights, even from slaughtering, which was understood to be the right of any Jew (hakol).

The Tosefta also puts a restriction on the slaughtering performed by a gentile and on any possible slaughtering done by an animal, such as an ape that can, itself, perform the act of shechita, or an animal that accidentally slaughters itself. The reason for this restriction is to prevent any misunderstanding of the word hakol. The Tosefta interprets the word hakol in light of the basic rabbinic understanding of the verse in Deuteronomy 12:21, which indicates those people who are permitted to perform shechita. In that verse the Hebrew is addressed to the second person singular (...and **you** shall slaughter...and **you** shall eat...) and not to any other individual who might perform the slaughter for the addressee.

The Tosefta goes on to analyze various situations that may occur during the slaughtering. Each situation deals with slaughtering done by a gentile and an Israelite together. It seems that the Tosefta would accept any slaughtering done with the participation of a Jew. No mention is made of who should recite the blessing prior to the shechita. This Tosefta provides no moral explanations for any of the rules that are given.

Some of the situations mentioned in this Tosefta are somewhat difficult to imagine and may have been included for

theoretical purposes but, indeed, they show how all-inclusive the Rabbis strove to be. It is interesting to note that in this Tosefta the only practices or features that would disqualify a person from being a slaughterer are idolatry and apostasy.

In Mishna Chullin and Tosefta Chullin (Zuckerman edition), we cannot discern any moral or civic attitudes required of the slaughterer. The major point for the Rabbis is the fact that the validity of the slaughtering is dependent on the partial or complete participation of an Israelite. The Tosefta includes the meshumad as a valid slaughterer. Tosefta stresses that the word hakol includes most of those people who, it would seem, should be disqualified on religious grounds. Only in those versions where the min is included does the Tosefta exclude a Jew on religious grounds.

Talmud

Up to this point, there has been no discussion of the first Mishna in Chullin. The Tosefta discusses the implication(s) of the Mishna by expanding on the definition of the word hakol. In the Babylonian Talmud several rabbis are engaged in a complex interpretation and discussion of the Mishna in an attempt to reach a conclusion. As is expected in the Talmud, arguments and explanations are sometimes clear but other times seem to have no direct

relationship to the subject of discussion, which in this case are the moral and religious characteristics of the slaughterer. The Talmud provides neither a definitive interpretation of the Mishna nor a conclusion. Since the Talmud is not have to decide the law.

The material regarding the subject of the slaughterer and the transgressor, who is not qualified to be a ritual slaughterer, is taken from the Babylonian Talmud, tractate Chullin, pages 2a-5a. The following is an explanation and analysis of the material from these pages.

Talmud Chullin chapter 1: The Talmud begins by introducing us to a problem that it perceives in the first sentence of Mishna Chullin (All may slaughter and their slaughtering is valid...). The Talmud is puzzled. To whom does this first sentence refer? Rashi explains that the word hakol comes to include something which we might otherwise not include in the list of proper slaughterers. Therefore, the Gemara asks if the word hakol (all) in this Mishna considers fit the following kinds of slaughterers: Unclean person (tame bachullin), Cuthean and an Israelite apostate. If they are considered proper slaughterers is that bediavad or lechatchila?

The Talmud tries to explain whether the word "all" should be understood as lechatchila or bediavad. These terms are central to this particular Talmudic discussion and, therefore, a precise definition is needed. Lechatchila

means "in principle, before the act occurs, not after."

Bediavad means "after the act, prohibited before the act, properly done or accepted in the situation in which the act was done even though it was forbidden." The Talmud tries to resolve the contradictory language of the Mishna. It says that the word hakol implies that the slaughterer is included lechatchila while "...and their slaughtering is valid..." implies the opposite, that is to say, after the act, bediavad. This means that in principle he should have not performed the slaughtering. However, if he has done so his shechita is accepted. Rav Aha, the son of Rava, suggests to Rav Ashi that the word hakol might refer to bediavad. If so, there is no contradiction because both phrases are bediavad. Rav Ashi replies that, in this Mishna, the word hakol must mean lechatchila because "...and their slaughtering is valid..." obviously means "after the act has been performed".

With this information how can the Mishna be interpreted so that the following will be solved and proved?

"All" means lechatchila; to whom does this term refer?

"...and their slaughtering is valid..." means to bediavad; to whom does this term refer?

"...except a deaf-mute, an insane person or a minor..." means that even bediavad their slaughtering is unacceptable.

The Talmud deals with this as follows: The sentence from the Mishna is divided into separate concepts. "All may

slaughter" is, for the Talmud, a right in the first instance. That is to say, everyone can perform the ritual of slaughtering. The Talmud understands the word "all" (hakol) as a way to include a certain person or group into the law of the Mishna. The Talmud also notes that for the Mishna to say that their slaughtering is valid after it says that everyone is fit to perform shechita makes no sense. The Mishna is not aware of this contradiction. The first dilemma that the Talmud confronts is the necessity to clarify the meaning of the word "all" (hakol) or the concept that this word implies in the Mishna.

The second part of the sentence ("...and their slaughtering is valid...") is interpreted by the Talmud to mean a sanction after (bediavad) the act of slaughtering when it is performed by individuals who are forbidden to perform ritual slaughtering but whose slaughtering will nevertheless be accepted as valid after they do it. It is important to note, as will be shown further on, that the Talmud understands that when the Mishna says "... and their slaughtering is valid..." it does not refer to the slaughtering performed by a deaf-mute, an insane person or a minor.

Rab Acha, the son of Raba, raised the following question: Is the word hakol always to be understood as lechatchila? After giving different examples from other places in the Talmud in which the word "all" is used, the

Gemara arrives concludes that in some cases the word "all" (hakol) implies lechatchila and in other cases it must be understood as bediavad. This conclusion is challenged by Rav Ashi, saying that if we accept the view that it can be understood either way, then why do we not use the word "all" here to mean a sanction after the act? If we were to do so, there would be no difficulty in understanding the Mishna.

Rav Ashi replies that this hakol must be understood as lechatchila because "...their slaughtering is valid..." is obviously bediavad and there is no need for two bediavad statements. What follows in the Talmud, beginning with Rabbah bar Hulla, are various attempts to interpret the Mishna so that lechatchila means "all" and bediavad means "...and their slaughtering is valid..." It is important to prove that these two statements each mean something different and that they do not contradict one another.

Rabbah b. 'Ulla interprets the sentence "All may slaughter..." to mean that "...even an unclean person..." is allowed to slaughter animals (non-consecrated) for food. He is also of the opinion that the second part of the sentence "...except a deaf-mute, an insane person, or a minor..." is not dependent on the last clause of the Mishna, which is "...and if any of these slaughtered while others were standing over them, their slaughtering is valid."

"...their slaughtering is valid" refers to the unclean person (tameh) who slaughters a consecrated animal

(mukdash). Although in principle (lechatchila) he is forbidden to perform the slaughtering, in practice, after the fact (i.e., bediavad) if the tameh says he is sure that he did not touch the animal his slaughtering is considered valid. Rabbah b. 'Ulla tries to prove that "all" means lechatchila and he uses the slaughtering of a nonconsecrated animal performed by the unclean person as an example. Rabbah b. 'Ulla also proves that "...and their slaughtering is valid..." can only mean after the act has been performed, (i.e., bediavad) by using as an example the slaughtering of a consecrated animal which is performed by an unclean person. Rabbah b. 'Ulla does not accept as valid the slaughtering by a deaf-mute, an insane person or a minor, even bediavad.

The Gemara raises a difficulty with the interpretation of the phrase "...and if any of these slaughtered..." This phrase cannot refer to any of the three categories of slaughterers (i.e., deaf-mute, insane person, minor). Therefore Rabbah b. 'Ulla's interpretation does not solve the problem of the Mishna. The phrase "...and if any of these slaughtered ..." still presents a difficulty, even in view of the proposed interpretations. It has not been possible to determine to what category does the statement "...and if any of these slaughtered..." refers. This is the difficulty of the Talmud.

This interpretation by Rabbah b. 'Ulla is derived from another Mishna which the Talmud refuses to accept as the

primary source of the law.⁹ Rabbah b. 'Ulla is clearly trying to rewrite this Mishna and he does this by bringing parallel examples from similar cases in the Talmud.

As mentioned before, various Rabbis interpreted this particular Mishna. Each of them rewrote this extremely complicated Mishna in his own way. We will continue with the opinion of Abaye.

Abaye begins, as does Rabbah b. 'Ulla, by interpreting the first part of the Mishna: "And all may slaughter..." He believes that the word "all" includes the Cuthean.¹⁰ This rule is only valid when an Israelite observes the complete act of slaughtering, and does not leave the Cuthean alone. However, if the Israelite leaves the Cuthean, then although one should not eat from his slaughtering, he is accepted bediavad. One may not infer that the slaughtering is valid simply because the Cuthean eats a piece of the meat. Rashi explains that the Cuthean does not care if he causes an Israelite to eat meat from an animal that has not been ritually slaughtered because he follows a literal interpretation of the commandment: You shall not put a stumbling block before the blind.¹¹ However, since the Cuthean observes the laws of slaughtering, if the Cuthean eats from the meat it is permissible to eat from it.

For Abaye, the words "...except a deaf-mute, an insane person and a minor..." are a clear indication that the slaughtering performed by these individuals (bediavad) is

considered invalid. He believes that any of these three conditions is sufficient to predispose an individual to perform some of the forbidden movements with the knife.¹²

The Gemara raises the same difficulty with Rabbah b. 'Ulla's statement "...and if any of these slaughtered..." that it raised with Abaye's view.

Rava (not Rabbah b. 'Ulla) has the same opinion as Abaye. Rava believes that the expression "all may slaughter..." must be understood as "even a Cuthean." It would apply even if the Jew goes out and in from the place where the slaughtering takes place. This is different from Abaye, who requires that the Jew stay during the entire time of the slaughtering. According to Rava, the bediavad section of the Mishna, "...and their slaughtering is valid...", refers to a Cuthean who has already slaughtered. Rava agrees with Abaye concerning a deaf-mute, insane person and minor. For Rava, therefore, lechatchila means a Cuthean and a Jew who goes out and in. Bediavad, for Rava, refers to the Cuthean who has slaughtered in the absence of a Jew.

R. Ashi has a completely different meaning for the expression "all may slaughter..." He believes that it includes the Israelite apostate who, with the singular purpose of satisfying his appetite, eats the meat of an animal that has not been ritually slaughtered. Ashi bases his interpretation on Rava's statement. Rava agrees with Ashi but he (Rava) includes a requirement that lechatchila

the knife be prepared and inspected before the apostate performs the slaughtering. Rava adds that if the apostate has slaughtered without prior inspection of the knife, then we must inspect the knife after the slaughtering. If it seems satisfactory, we may eat from his slaughtering (bediavad). Ashi maintains the same position as the other sages regarding the deaf-mute, insane person, and minor. We are not allowed to eat from the slaughtering of these three even after the slaughtering has taken place (i.e., bediavad). The Gemara raises the same difficulty with R. Ashi concerning the phrase of the Mishna "...and if any of these slaughtered..." According to Ashi, "these" refers to the apostate, and the phrase is a clear proof for his point of view.

Rabina thinks that when the Mishna uses the expression "all may slaughter..." it refers to all who are qualified to perform the ritual. He maintains that lechatchila the word "all" applies to all who know the laws of shechita but have no experience. The bediavad section of the Mishna, "...and their slaughtering is valid...", is that if it is impossible to check his knowledge beforehand we must question him afterwards. If he knows the laws of shechita it is permissible to eat from his slaughtering. The Talmud also raises the same difficulty regarding the deaf-mute, the insane person, and the minor, for these present a problem for Rabina's interpretation. Therefore, Rabina also

excludes the three types of persons mentioned in the Mishna and he says that the statement "...and if any of these slaughtered..." refers to those who are not qualified. In other words, it refers to those whose knowledge of the laws of shechita is unknown to us before they perform shechita.

On the other hand there is another version of Rabina's statement. It explains that lechatchila "all may slaughter..." refers to the one whose knowledge of the laws of shechita is unknown but who is experienced, as evidenced by the fact this person has slaughtered in our presence two or three times and has not fainted. However, if we have not seen him perform shechita, but he has slaughtered, he must proclaim that he did not faint. This, then, will be bediavad ("...and their slaughtering is valid..."). Rabina agrees with the other Rabbis regarding the deaf-mute, the insane person and the minor, that is to say, even bediavad their slaughtering is considered invalid. The Gemara again raises the same difficulty with Rabina's explanation regarding the three categories of slaughterers (i.e., the deaf-mute, insane person, and minor) that it raises with the arguments of the other rabbis discussed here. Rabina applies the phrase from the Mishna "...and if any of these slaughtered..." only to those who are not experienced in performing shechita. Up to this point all the Rabbis discussed in the Talmud section have interpreted only the first three statements of the Mishna, as shown here:

1. "All may slaughter and their slaughtering is valid..."

2. "...except a deaf-mute, insane person or a minor..."

3. "...and if any of these slaughtered..."

The Talmud now presents us with an overall view of how each opinion relates the others. The situation is as follows: Rabina and Rabbah b. 'Ulla do not interpret the Mishna in the same way as Abaye, Raba and R. Ashi. This is because the latter group find difficulty in the statement "...and if any of these slaughtered..."

Rabina, Abaye, Raba, and R. Ashi do not agree with Rabbah b. 'Ulla's interpretation because he suggests that this Mishna (Chullin 1:1) is the source for the law regarding the uncertainties of the Mishna. They believe that another Mishna is the source of the law for this Mishna (Chullin 1:1).¹³ The law seems to be in accordance with Rabbah b. 'Ulla's understanding of the Mishna, but it is not clear from the text¹⁴.

On pages 4a-b, previously cited in the discussion of R. Ashi, we find Raba stating that the transgressor who eats meat out of desire from an animal that has not been properly slaughtered may, under certain circumstances, become a slaughterer. He adds that this kind of transgressor is allowed to perform shechita since he is breaking the commandment simply out of his own weakness. If this kind of transgressor wants to perform shechita, the knife must be

inspected prior to the slaughtering. No one is required to observe the slaughtering because, if given the opportunity to slaughter properly, the transgressor will not break the law.

The question is therefore: if the transgressor is so concerned with the ritual of slaughtering, why then must the knife be inspected by someone who is not a transgressor? The answer is because the mumar who eats improperly slaughtered meat will not go to any trouble to prepare the knife correctly. However, if given a knife that is already prepared, he will perform shechita properly. The reason that this particular kind of transgressor is mentioned here is because the tendency might be to think that someone who does not care what kind of meat he eats will not be allowed to perform shechita. The truth is that he is specially mentioned particularly so that no one will make the error of considering his slaughtering improper. The concept behind this rule is that one who transgresses one commandment is not considered to have profaned the whole Torah. For Shmuel, another rabbi mentioned in the analysis of Mishna Chullin 1:1, the slaughtering performed by an idolater, who is also considered a transgressor (i.e., mumar), is considered valid.

On the middle of page 5a, the discussion regarding the slaughtering of a transgressor (mumar) is continued. The Talmud discusses the beraita that says that "...all may

slaughter, even a Cuthean, even an uncircumcised person, even an Israelite apostate...¹⁵" The Talmud interprets each of these categories of transgressors.

The analysis begins with the uncircumcised person. What is his status regarding his right to perform shechita? The Talmud clarifies that this case is not one in which the brother of the uncircumcised man has died as a result of the circumcision, but one "...who is opposed to the law of circumcision...¹⁶"

The next part of the analysis explains the meaning of the term Israelite apostate. The Talmud asks if the term Israelite apostate refers to someone who is opposed to a particular law. If the answer is yes, this case is similar to that of the uncircumcised Israelite, who is considered a transgressor of the commandment of circumcision. This kind of transgressor is a "transgressor of one commandment." Therefore, must an Israelite apostate be an idolater? The Talmud answers by saying that being an idolater is much more serious than being any other kind of apostate. This implies that an Israelite apostate is "a transgressor of a specific commandment" (i.e., eats non-kosher meat out of desire) and his shechita will be accepted if someone has inspected the knife before the slaughtering. The Talmud says that this case "...can only mean one who is an apostate in respect to idolatry...¹⁷" The Talmud continues by saying that if the apostate practices idolatry it is as if he denies the

whole Torah; therefore, he is not allowed to perform shechita. Then why would such a transgressor be mentioned? Why would he be allowed to perform shechita? The answer given by the Talmud is that the Israelite apostate "...is one who is opposed to his particular practice [of ritual slaughtering]..."¹⁸ This kind of transgressor is still allowed to perform the ritual slaughtering, even though he is opposed to it. This is in accordance with Rava's view.¹⁹

The discussion continues with an objection based on a verse from Lev. 1:2 "...When any of you presents an offering of cattle to the Lord, you shall offer you offering from the herd or from your flock..." in which the emphasis is put on the word **you**, meaning the Israelites, and on the word **cattle**, which the rabbis interpreted as people without merit (i.e., transgressors). The rabbis agreed that offerings brought by the transgressor (and not by the apostate) should be accepted so that the transgressors will "be inclined to repent²⁰." The Talmud goes on to explain that offerings may not be accepted from an Israelite apostate (note the difference between this person and a transgressor) who offers wine of libation or profanes the Sabbath publicly because these are more serious sins than the others. The main point that the Talmud proves on page 5a is that "...an apostate in regard to idolatry is regarded as opposed to the whole Torah..."²¹ This means that he is not allowed to

perform ritual slaughtering. Therefore, the apostate (yisrael mumar) that is mentioned in the initial statement can only refer to someone who is opposed to shechita.

The Talmudic discussion does not offer a solid and clear conclusion on the possible meanings of the words hakol and mumar. In later rabbinical works a much more sophisticated definition is offered, especially in the Codes. Nevertheless, it is still important to point out that the Rabbis of the Talmud were looking for patterns to help them decide which kind of transgressor would not be permitted to perform shechita. The fact that the Talmud is not a Code, and that it does not always give the halacha for a certain problem, helps to clarify why this confusion exists in the Talmudic reading.

It is clear from the Talmud that any Jew who practices idolatry or profanes the Sabbath publicly is **always** disqualified from performing the ritual slaughtering. This conclusion, which is based on the beraita, is stricter than Shmuel's view cited by R. 'Anan (see Talmud 4b).

In comparing the conclusions of the Talmudic passage and Tosefta 1:1, the same decision is found. In the Tosefta, the slaughtering performed by an Israelite apostate (meshumad, i.e., a person who transgresses any commandment but does not profane the Sabbath publicly or practice idolatry) is considered valid. This is also true in the Talmud, as found on page 4b in Raba's statement. Tosefta

1:1 does not allowed the min to perform ritual slaughtering. The only reason given for this rule is that the slaughtering is considered idolatry. The Tosefta further mentions that the slaughtering performed by a gentile is also considered invalid. Thus one may conclude that the min of the Tosefta is the same mumar that the Talmud mentions. One must take into consideration that the Talmud probably reinterprets the concept of min and includes public profanation of the Sabbath and idolatry as the major characteristics of this Jew who, by committing these transgressions is not allowed to perform ritual slaughtering.

Mishne Torah

After the period of the Talmud, many rabbinic scholars produced works of halacha, codes which attempt to pinpoint the legal essence of the Talmudic sources.¹ In the 12th century, Maimonides, the great Jewish thinker, writes the Mishne Torah as a result of the need for a code that determines the law in every area of Jewish observance. Despite the prestige of its author and the brilliance of his achievement, the problem with this work is that Maimonides does not provide sources for all the laws that he writes. This sometimes makes it hard to follow Maimonides' thinking. It is, therefore, necessary for someone to explain and comment on Maimonides' writing. This is done by commentators such as Magid Mishne. The commentary to Hilchot Shechita that is written under Magid Mishne's name

is the work of another scholar who probably uses the name of Magid Mishne in order to give validity to his work.

Maimonides deals with our subject--the religious qualifications of the ritual slaughterer--in the Book of Holiness. Laws of shechita are found in Chapter four, Law fourteen.

"...An apostate Israelite who transgresses one of the commandments, and is also an expert in shechita, may slaughter in the first instance, but an observant Israelite must first examine the knife and then give it to this apostate to perform shechita, since the presumption is that he [the apostate] will not go to any trouble to inspect the knife. And if he is an apostate to the extreme of practicing idolatry or public profanation of the Sabbath, or if he is an atheist, that is, he denies the authority of the Torah and of Moses our teacher, as we have explained in the Laws of Repentance, he is considered an idolater and his shechita is considered invalid..."

This law, clear as it may seem, presents a great deal of trouble for the commentator. It is important to know that Maimonides uses the Talmud as a primary source to create the law, even though he does not explain how he uses it. The commentator must explain how this particular law is derived from the Talmud and how the Talmud makes a difference in Maimonides' laws.

Magid Mishne on 14: The commentator calls our

attention to the fact that a feature of Maimonides' ruling seems to have no Talmudic basis. The Talmud only mentions the person who, out of desire, eats meat that has not been properly slaughtered (see Chullin 3a). The commentator cannot understand why Maimonides says that a transgressor of any commandment, not only the commandment to eat properly slaughtered meat, must have an observant Jew inspect the knife prior to the act of slaughtering. And further, says the commentator, Maimonides did not codify the law concerning the person who eats forbidden meat out of scorn for the commandments. Magid Mishne also questions the law regarding the one who eats forbidden meat just to upset someone. This kind of transgressor is different from the one who eats forbidden meat out of desire, because the former will always try to eat improperly slaughtered meat just to upset someone and to show that he does not care about the commandment. The latter will choose to eat ritually slaughtered meat over forbidden meat because his problem is not with the principle of the ritual but with a desire that he is unable to control. The problem with the transgressor who eats improperly slaughtered meat out of desire is that he will not go out of his way to obtain ritually slaughtered meat. The transgressor who eats improperly slaughtered meat simply to upset someone is considered the worse of these two kinds of transgressors. The Talmud mentions the need for inspection of the knife

only with respect to the position of Rab Ashi (3a), and Rab Ashi does not mention the expert at all, as does Maimonides. In fact, the Talmud concludes that Rab Ashi would not require inspection of the knife even if the slaughterer were an apostate out of desire. The commentator explains this by saying that all people are assumed to know how to ritually slaughter. In this halacha Maimonides mixes two characteristics, expertise and inspection of the knife, into one law.

Magid Mishne points out that Rabeinu Asher b. Yehiel (Rosh), an eminent Talmudist born in Germany in the 13th century and forced to move to Toledo, Spain, has the same difficulties that the commentator himself has with Maimonides' text²². Rosh seeks to understand why Maimonides is so strict, applying the demand for inspection to any apostate (not just the violator of kashrut). He argues that Maimonides reasons as follows: someone who customarily violates anyone commandment of the Torah cannot be expected to observe any of the other laws in the proper way. In our Talmudic discussion, on the other hand, Rava excluded from the prohibition against performing shechita (i.e., he may perform shechita) only the one who eats out of desire, as long as the knife is checked before the slaughtering occurs. Why then does Rava specify that this mumar is a violator of the dietary laws? He does so in order to allow such a mumar to be a slaughterer in the first place. If he had not been

specific, it would have been possible to conclude that while most transgressors may slaughter, a violator of this particular commandment could be excluded. Thus, Maimonides's ruling is not based on Rava's statement. There are others [acherim] who say that this law written by Maimonides (that prior to the slaughtering an observant Jew must inspect the knife of anyone who transgresses even a single commandment) derives from the baraita (Chullin 4b) which is cited in support of Rava. The baraita states that anyone is allowed to slaughter, even a Cuthean, an uncircumcised person, and an Israelite apostate. The point that Rava tries to make here is that a transgressor of one commandment is not like a transgressor of the entire Torah and, therefore, he is allowed to slaughter.

According to these interpreters (acherim), Maimonides sees this baraita as dealing with a case of inspection of the knife, just as in Rava's statement, since the Talmud cites this baraita in support of Rava. However, Maimonides rejects Rava on the issue of the violator of the dietary laws, whether he violates out of desire or scorn. Inspection of the knife is insufficient to allow this apostate to slaughter; an apostate may slaughter **only** if he violates some commandment other than the dietary laws. The violator of the dietary laws is never permitted, lechatchila, to slaughter. Since he derives the law from the baraita and not from Rava's statement, this, according

to the acherim, is why Maimonides does not cite Rava's statement in full. The acherim also write that Rif²² agrees that the violator of the dietary laws is forbidden to perform ritual slaughtering, since he omits the statements from his halachot.

Magid Mishne proceeds to summarize the law concerning four kinds of transgressors as follows:

- 1) The transgressor of any commandment of the Torah, with the exception of the person who profanes the Sabbath publicly or practices idolatry, is allowed, in principle, to perform slaughtering by himself. Even without checking the knife ourselves, we trust that he has inspected the knife and that he has performed the slaughtering properly. To prove this first point, the acherim quote the Talmud where it says that "...all may slaughter even an uncircumcised person..." In this case the beraita understands the uncircumcised person to be opposed to the law of circumcision, that is to say, opposed to one law of the Torah. Even so there is no mention that inspection of the knife is required for him or that he is not allowed to perform shechila. This contradicts the opinion of Maimonides who requires the inspection of the knife for any kind of transgressor.
- 2) For the transgressor who eats forbidden meat out of

desire, a desire that he is unable to control, inspection of the knife prior to the slaughtering is necessary before he is allowed to perform shechita. This precaution is based on the fact that this kind of transgressor will not extend himself in order to acquire a sharpened knife. However, if the knife has been inspected before being given to him, he will perform the slaughtering according to the laws of shechita. Inspection of the knife is the only requirement for this kind of transgressor. There is no need for an observant Jew to witness the slaughtering since there is no suspicion that this particular kind of transgressor will prefer to eat meat that has been improperly slaughtered when kosher meat is readily available. It is also believed that a transgressor out of desire will not cause someone else to sin since, unlike the Cuthean, he accepts the rabbinic interpretation of the Biblical commandment to "not put a stumbling rock before the blind" (Lev 19:14). However, if the knife has not been inspected before the slaughtering one should not expect that the transgressor out of desire will do so. If the knife has been inspected after the slaughtering and is found fit, we are allowed to eat from his shechita. Therefore if the knife is lost prior to the inspection, the act is

consider invalid. But if the transgressor seems to have slaughtered with the knife of a slaughterer, his own slaughtering is considered valid, since the knife of a slaughterer is usually ready for slaughtering and is therefore considered to be "inspected." From the same perspective, if this kind of transgressor slaughters in privacy and is found to be holding two knives, one inspected and the other uninspected, and he says that he slaughtered with the proper knife, then the slaughtering is valid. The reason for this is that it is believed that the transgressor will not mislead others, nor will he slaughter with an unfit knife when a proper knife is readily available. Other authorities are more strict. They hold that the mumar is not to be trusted if, between the time of the slaughtering and the inspection, he had the opportunity to obtain a sharpened knife elsewhere. Magid Mishne, however, rejects this stringency.

Magid Mishne refers to a dispute among some authorities. There are those who say that if the knife has been inspected before the slaughtering then it is not necessary to inspect it afterwards. There are those who say that it is not necessary to inspect the signs (i.e., the respiratory system, bone structure, digestive system, and circulatory

system²⁴) in the animals after the slaughtering, and that if the slaughterer has slaughtered a number of animals there is no need to inspect the knife between each slaughtering. While some require inspection of the knife in these cases, others point out that in the Talmud, Rava requires the inspection of the knife only before the act of slaughtering takes place. Magid Mishne is of the opinion that this discussion parallels the matter of a "fit Jew" that has already been discussed by our sages. Those who require such inspections when a "fit" Jew slaughters would certainly require them in the case of the mumar. The only difference between the observant Jew and this particular transgressor is that inspection of the knife for the transgressor is required before the slaughtering since the person who eats forbidden meat out of desire will not go to any trouble to check the knife prior to performing shechita. This is what Rava stipulates in the Talmud. Thus there is need for this discussion at all.

- 3) The authorities disagree concerning the transgressor who eat meat in order to show scorn for the commandment. Some say that, lechatchila, the transgressor is not allowed to slaughter whether or not the knife has been inspected or an observant Jew

witnesses the slaughtering from beginning to end. But if the transgressor has slaughtered (bediavad) and the knife was inspected and others watched the slaughtering, or if the knife is found to be acceptable after he has performed shechita, his slaughtering is considered valid since he is not a Gentile but rather a rebellious Jew with regard to the laws of shechita. As long as we see that he slaughtered correctly, bediavad, his shechita is accepted. This is the opinion of Rashba²⁵ and Harah²⁶. Others [acherim], on the other hand, write that a person who eats forbidden meat in order to upset someone is considered an idolater as far as shechita is concerned, even if other people observe the slaughtering or the knife has been inspected beforehand. Even bediavad his shechita is considered invalid. This is the opinion of Rosh and Ri.²⁷

- 4) The slaughtering of the transgressor who profanes the Sabbath in public or uses the wine of libation is considered invalid. Nothing can make it valid, including witnessing the slaughtering or inspecting the knife beforehand. Regarding any matter of religion, his status is of that an idolater.

These are the four categories that Magid Mishne presents in his commentary on this halacha.

In his halachik work, Maimonides maintains a stricter position than other commentators. To Maimonides, there is no difference between a transgressor of any commandment and a transgressor of the commandment to observe the dietary laws. Therefore he puts the same requirement and stringency upon any transgressor who may perform the ritual slaughtering. The significance of Maimonides' view is that he places all commandments at the same level of kashrut observance in relationship to the ritual slaughtering. For Maimonides a transgressor to any commandment is suspect regarding shechita not because it is known that he has transgressed the laws of kashrut, but because any transgressor is suspected of being negligent with regard to any commandment. This mumar le dabar echad (transgressor to one commandment) may never have transgressed the laws of kashrut and he is still, according to Maimonides' opinion, forbidden to perform the ritual slaughtering. Maimonides differs with the other commentators because they see only a technical problem with the transgressor. That is to say that only the transgressor of the laws of kashrut is suspected of performing shechita. The reason being that since he does not observe the laws of kashrut it can be assumed that he will not be careful when performing shechita. Maimonides also adds to the Talmud's analysis by simplifying the law into simpler statements that are easier to understand. It could be said that Maimonides writes a

sophisticated conclusion out of the Talmudic argument.

Tur

The Tur is a 14th century halachik work written by Jacob Ben Asher that presents the basis for the laws of the Shulchan Aruch. It lists a series of laws regarding some of the religious characteristics of the slaughterer. The discussion below presents an overview of the different laws given in chapters one and two of the Tur Yoreh De'ha. The discussion is an analysis of Caro's interpretation of these laws in his work Beit Yosef. Caro's work tries to investigate each law of the Tur, beginning with the Talmud and following its development, as well as analyze several views regarding each specific law. The ultimate goal of Caro's work is to establish one halacha.

Siman Alef: Based on a baraita in Chullin 28a (this is a beraita based on Deut. 12:21) the section regarding shechita begins by saying that the laws of ritual slaughtering were given to Moses at Sinai. This is presented here in order to give validity to the laws of shechita that are mentioned only in the Rabbinic literature. This implies that the laws were written by Moses and that, therefore, they have unquestionable validity. The Tur follows the standard rabbinic thought, that is to say, that the laws of shechita were given at Sinai.

The Tur, as well as the other authorities, is aware of the controversy created by the Mishnaic sentence: "All may

slaughter..." The Tur begins, therefore, by accepting that, in principle, anyone, including women and slaves, is allowed to slaughter. It is clear that the Tur acknowledges the majority principle based on the word hakol of the Mishna ("All may slaughter...") which, as mentioned before, implies that women are also allowed to slaughter. Caro explains that women are not allowed to perform shechita in our time even though the law permits anyone to slaughter because the tradition of Israel is that women do not perform shechita; and tradition annuls the law. In this commentary Caro refers to Tosafot in Chullin 2a in which the word hakol, in the Palestinian tradition, means that women are forbidden to slaughter. The tradition of the Babylonian Talmud is that women are permitted to slaughter. Therefore, it is custom and not law which annuls the practice.

The Tur follows the rule that if it is impossible to ask the slaughterer if he has knowledge or experience regarding shechita one may still presume that he is qualified to perform ritual slaughtering. Where possible, however, one is obliged to question the slaughterer.

What is the reason that one may trust the slaughterer if he is not in the presence of the people? The answer is that, in this case, the people rely on the majority principle. If, however, the slaughterer is in the presence of the people, they must inquire whether he knows the laws of shechita and if he fainted during or after this

particular slaughtering. Questioning of the slaughterer need not occur before the slaughtering.

If one has slaughtered properly four or five times in the presence of witnesses, but it is known that he does not know the laws of shechita, even if he has experience, people may not eat from his slaughtering unless he is watched. At this point the Tur makes a distinction between knowledge and practical experience. Practical experience alone is not enough to qualify someone to perform ritual slaughtering. However, if the slaughterer has slaughtered properly in the presence of witnesses his slaughtering is considered valid. The witnesses are a fundamental factor in determining the validity of the slaughtering of someone who has practical experience but no knowledge of the laws of shechita. The slaughtering process must be witnessed from beginning to end when it is known that the slaughterer is not an expert.

Here the Tur grants validity to the slaughtering of the one with practical experience but no knowledge so that properly slaughtered meat can be provided in communities where no knowledgeable slaughterer resides. This illustrates the flexibility of the Rabbis regarding shechita.

The Itur Sebachik work composed by Isaac b. Abba Mari of Marseilles in the 12th century and mentioned in the Tur) says that if someone is known to have studied (mumche) but it is not known whether he faints or not (muchzak), he may,

in principle, be allowed to perform shechita. It is unnecessary to examine him concerning his experience (i.e., whether or not he fainted). The Itur rules that knowledge is much more important than practical experience.

The Tur also points out the opinion of Rambam, discussed above²², regarding the difference between knowledge and practical experience. For Rambam, both knowledge and practical experience are important. In principle, according to Maimonides, a slaughterer needs to be both an expert in the laws of shechita and experienced in slaughtering. There is a difference between the expert who has no have experience and the one who has experience but no knowledge of the laws of shechita. When the expert without experience slaughters there is no need to ask him whether or not he fainted before eating from his slaughtering. When the person who possesses practical experience but no knowledge slaughters one is obliged to ask him concerning the laws of shechita.

Caro, however, explains that Rambam does not differentiate between the person who possesses knowledge and the one with practical experience. For Rambam, Caro says, both types of persons are allowed, in principle, to perform shechita. He makes a distinction only as to when to interrogate a slaughterer. The Tur continues, saying that Rambam believes that the person who possesses knowledge of the laws of shechita but has no practical experience need

not be interrogated concerning his experience. On the other hand, Rambam says that if the slaughterer has only practical experience and he slaughtered alone, one is obliged to ask him if he knows the laws of shechita.

Rosh makes no distinction. For him it is an obligation to examine both kinds of slaughterers. This examination must be done before anyone eats from his slaughtering. However, if either of the slaughterers is available to be examined one may presume, under the majority principle, that he was a qualified slaughterer.

The Tur states that a minor is not allowed, even in principle, to perform shechita. If the minor, however, has performed (bediavad) shechita in the presence of witnesses it is considered valid. If the minor knows the laws of shechita and he also knows how to ritually slaughtering, he is not allowed, in principle, to perform the slaughtering alone. But, if he has already performed the slaughtering (bediavad) alone, it is considered valid.

Siman Beit: In Siman Beit the Tur explores, in greater depth, religious barriers that invalidate shechita. It specifies some of the transgressions that will invalidate even a slaughtering that is performed correctly according to the law.

The slaughtering of an idolater is considered carrion even if others have witnessed the slaughtering.

The transgressor who eats forbidden meat out of desire

is allowed to perform shechita only after an observant Jew has inspected the knife. This allows him to perform shechita even while he is not being witnessed. His slaughtering is considered valid even if he does not eat from it. Caro explains that the reason the knife must be inspected is because this particular transgressor eats **only** out of desire. This means that if this transgressor has a proper knife readily available, he will not exchange it for an improper knife. Caro adds that the transgressor out of desire need not be the first one to eat a piece of the meat. Caro states that the Tur derives this from the arguments of the Tosafists, who have interpreted the law in the same fashion. The Tosafists point out that the Gemara does not require the slaughterer who transgresses by eating meat out of desire to eat a piece of meat in order for it to be considered fit for others.

The only case in which the transgressor must eat a piece of meat first, Caro says, is when the slaughterer is a Cuthean. This is because the Cuthean observes a literal interpretation of the commandment "...do not put a stumbling rock before the blind..." Therefore, he will not take personal responsibility for causing another individual to transgress, whether related to the laws of kashrut or any other commandments. In other words, the Cuthean may give the observant Israelite a piece of meat that is not properly slaughtered. It is important to remember that the Cuthean

does observe the laws of shechita, and that he will not eat a meat that has not been properly slaughtered. However, he would give improperly slaughtered meat to someone else. The Tosafists and Rosh wrote that without inspection of the knife the transgressor out of desire is not permitted to perform shechita. This is true even if an observant Jew enters and exits during the slaughtering. The case of the Cuthean is different because he fears that the knife will be inspected. Therefore, he will not risk performing the slaughtering with a knife that has not been inspected. Since he knows that he is under constant inspection by the observant Jew, the Cuthean takes precautions so that the meat he slaughters will not be wasted. The transgressor out of desire is not concerned with the inspection of the knife after the slaughtering because, as a Jew, he assumes that no one will question his slaughtering.

The Tur says that Rashba's opinion is that even if the slaughterer's knowledge of the laws of shechita is unknown, he is allowed to slaughter on the condition that an observant Jew inspect the knife prior to the slaughtering. In a case like this, one may not presume that the knife will be inspected after the slaughtering. This is taken from Rashba's work Torat ha-Bayit. Rashba questions himself by asking whether it is possible to rely on the majority principle even in the case of the transgressor out of desire. The majority principle consists of the assumption

that anyone who performs the ritual slaughtering without being examined as to his knowledge or experience is considered fit to perform ritual slaughtering since the majority of those people who perform the ritual slaughtering are considered experts. Rashba says that it is reasonable to assume that the majority principle can be applied to the case of the transgressor out of desire. Rashba thinks that when the Talmud says "...most of the slaughterers are experts..." it refers to all slaughterers without qualification. Rashba believes that Rab Ashi, Abaye and Rava do not mention the requirement of expertise with respect to the mumar or the Cuthean. It is Maimonides who introduces this requirement into the case of a mumar: "...a transgressor to one commandment who is an expert in shechita is allowed, in principle, to slaughter..." This implies that the transgressor may slaughter only if he is an expert. Rashba agrees with this. It is reasonable to assume that one who eats forbidden meat and goes to no trouble to secure properly slaughtered meat is not an expert since he slaughters only to satisfy his appetite.

Rashba stipulates that if, however, the transgressor does not break the laws of shechita, even though he may break other commandments, his shechita is still considered valid. Regarding shechita, he is considered an observant Israelite and so he is under the protection of the majority principle. Rashba infers from Maimonides' statement that

there is no need to investigate whether the transgressor knows the laws of shechita. When Maimonides requires an expert (mumche) he does not mean that we must be sure this transgressor knows all the laws of shechita, but rather that he appear to be competent. Rashba explains that the Talmud does not require the mumar to be an expert before he may slaughter, but Maimonides does. Is this a contradiction? The answer is no because there is a difference between a transgressor who eats non-kosher meat (if we assume that he is not an expert the majority principle does not include him) and other transgressors, who are included under the majority principle. Rashba explains that perhaps Rambam does not mean that it is necessary to be certain that this transgressor knows the laws of shechita before he slaughters.

Caro also introduces the opinion of Ran (Rabeinu Nissim ben Reuben of Gerona ?1310-?1375), who does not believe that the majority principle applies to the transgressor out of desire. Ran requires us to determine whether this transgressor knows the laws of shechita before he is allowed to perform ritual slaughtering.

Further on, the discussion returns to the subject of the transgressor. The Tur states that a transgressor of any commandment except shechita may slaughter alone and that there is no need to inspect the knife either before or after the slaughtering. Caro explains this by stating that in the

conclusions found at the beginning of Chullin 5a, a transgressor of one commandment is not considered a transgressor of the whole Torah, the Tur follows the opinion of his father, the Rosh, rather than Maimonides' stricter ruling. Therefore, it is possible to trust the transgressor's slaughtering. However, if the transgression is the drinking of the wine of libation or the public profanation of the Sabbath, such a transgressor is considered to have profaned the whole Torah. Then he is considered an idolater and his slaughtering is invalid.

Caro introduces one additional authority, Rabeinu Yerucham. Rabeinu Yerucham (Yerucham b. Meshulam, 14th century, Spain) says that if a person observes the Sabbath and does not practice idolatry but he is a transgressor of the rest of the Torah he is considered an idolater. Caro now examines a different aspect of the problem. He tries to determine why inspection of the knife is required in the situation where a transgressor performs shechita. Caro quotes Rosh and Rosh quotes Maimonides. Rosh says that inspection of the knife is necessary only when the transgressor profanes the laws of shechita, and not when he transgresses other commandments. Magid Mishne makes a distinction between the different kinds of transgressors and their restrictions regarding shechita. He gives the four categories previously discussed in this thesis⁶⁹ in the section on Mishne Torah. Rambam, on the other hand, is much

more strict and differs from the Tur and Rosh's opinion. He requires inspection of the knife for any kind of transgressor. He reasons, according to Rosh, that anyone who transgresses a commandment cannot be trusted to perform any other commandment according to the halacha. As shown previously in this thesis, the Rambam's position is clearly more strict than other sages. He gives equal value and importance to all the commandments.

Rambam requires inspection of the knife prior to slaughtering because he believes that it is impossible to trust a slaughterer who does not observe the commandments. Caro explains that Rambam requires inspection of the knife only with regard to a habitual transgressor (i.e., mumar) of a particular commandment. Rambam, according to Caro, does not require inspection of the knife if the sinner (i.e., avaryan, a sinner who does not transgress habitually) is disqualified from testifying. He differentiates between the occasional sinner and the habitual transgressor, the sinner being the less severe of the two categories. Caro believes that if the transgressor who is slaughtering is not qualified to testify because he has eaten forbidden meat, even if he has eaten it only once, he is still obliged to have the knife inspected prior to performing shechita.

Rashba's view elucidates Caro's explanation of Rambam's position. Rashba explains the problem as follows: a transgressor of one commandment who is not considered a

transgressor of the whole Torah and who has not transgressed the laws of shechita is allowed, in principle, to slaughter alone. He may do so even without inspection of the knife. Rashba adds that Rambam does require inspection of the knife before the transgressor is allowed to slaughter. Rashba expresses puzzlement at Rambam's strictness, while Rosh, as we have seen, does provide an explanation for Maimonides' stringency.

Is shechita seen by the Rabbis as equally important to daily prayer or study? Based on the Rabbis' treatment of the transgressor concerning shechita, it is possible to discern degrees of importance among the numerous commandments of our faith.

The Tur is important because on one level it shows the concern our sages had for ritual slaughtering. On another level it is proof of the Rabbis' debate on whether or not to grant validity to the slaughtering of a transgressor. It is clear that the major offenses are the public profanation of the Sabbath and the practice of idolatry. These acts undoubtedly disqualify any Israelite from slaughtering.

The sages do not agree in relation to moral requirements, length of time of practical experience, and amount of knowledge that the slaughterer must have. There has been no resolution beyond the Mishne Torah stage even though the problem has been discussed considerably. The question that the sages considered is: is it possible to

trust a mumar to perform properly as a ritual slaughterer?

All the sages agree that if the mumar is a habitual violator of the dietary laws, it is not possible to trust him to seek a valid knife. It is necessary to inspect the knife prior to the ritual slaughtering. Maimonides extends this stringency to the habitual transgressor of any commandment. Rosh provides the accepted explanation of this ruling, though he disagrees with the ruling itself. All the sages agree that if the transgressor practices idolatry or profanes the Sabbath publicly he is considered an idolater, which disqualifies his slaughtering. This last statement shows a different level of stringency than in the case of the transgressor of the dietary laws. In that case the transgressor is excluded from performing ritual slaughtering for pragmatic reasons (i.e., we need not worry about the fact that the knife must be inspected prior to slaughtering). The transgressor who practices idolatry or profanes the Sabbath publicly is considered an idolater and, in contrast to the case of the one who profanes the dietary laws, his ritual slaughtering is always rendered invalid, even if the knife is inspected.

A major philosophical difference exists between the transgressor of the dietary laws out of desire and the one who practices idolatry or profanes the Sabbath. The transgressor of the dietary laws out of desire is considered a "full" Jew regarding the commandments. This means that he

is obligated to observe all of them but that because of weakness he will eat any kind of meat. As a consequence of this weakness he will make no effort to obtain properly slaughtered meat. However, if someone inspects the knife the transgressor out of desire will have no objection to performing the ritual slaughtering and eating that meat. On the other hand, the Jew who is accused of practicing idolatry or profaning the Sabbath publicly is not considered a "full" Jew. He is not even considered a Jew technically speaking and, therefore, his slaughtering is like the slaughtering of a non-Jew, which is forbidden even if the knife is inspected. This kind of transgressor is not permitted to slaughter in the Jewish community because of the fact that these two transgressions will cause him to be excommunicated from the people of Israel. In other words, he is not responsible for any of the commandments that a Jew must observe, including ritual slaughtering.

Shulchan Aruch

Another important code regarding the laws of shechita is the Shulchan Aruch. The Shulchan Aruch, like the Mishne Torah, was written in a style that facilitates understanding of the law without presenting the discussion process undergone by the Rabbis to arrive at the law. It represents the law, as agreed upon by the rabbis, in its final form. Even today this work is considered an important halachik work for the Jewish community. Joseph Caro, author of the

Shulchan Aruch, bases most of the laws on Talmudic arguments as well as other codes. The Shulchan Aruch is strongly related to another of Caro's famous works, Beit Yosef, a compendium of Caro's commentaries on the Tur. Beit Yosef is divided into the same major chapters as the Tur. It does not state the sources from which Caro took the laws that he included in the Shulchan Aruch. However, it is mentioned by Caro in his introduction to the Beit Yosef, he relied on three great masters of the law, Isaac Alfasi, Moses Maimonides, and Asher b. Jehiel, and that he generally accepted the majority opinion (two) in case of disagreement.

The section that deals with the slaughtering performed by various kinds of idolaters appears in the volume Yoreh De'ah, Laws of shechita, chapter 2.

The laws will be presented in translation and the rabbinical source will appear in parenthesis. Commentary will be added to the translation as needed. The second set of parenthesis in each paragraph contains the commentary of Be'er Ha-Gola, Moses Rivkes. In 1661 through 1666 he corrected the edition of the Shulchan Aruch that was printed in Amsterdam by adding the sources and helping to clarify some of the laws.

Siman Beit: "Is the slaughtering of an idolator or a transgressor considered valid?"

Paragraph 1: "The slaughtering performed by an idolater [is considered] carrion." (Mishna, Chullin page 13). "Even

if he is a minor (i.e., even if he is too young to make an informed choice about idolatry), even if he does not actively participate in idol worship as in the case of a ger toshav,³⁰ even if others witness him." (Chapter four, Mishne Torah, Laws of Ritual Slaughtering).

Paragraph 2: "[In the case of] a transgressor out of desire, an [observant] Israelite has to inspect the knife and then [the knife] is given to him [the transgressor] and it is permitted to eat from his slaughtering." (From the Raba in Chullin page 3: 'He will not abandon what is permitted in order to eat what is forbidden. Even if he does not eat from it there is no suspicion because this transgressor observes the commandment not to put a stumbling rock before the blind.') "Even if he slaughters alone." (Rabeinu Nissim and Mordechai in the name of Rab Itzhak.) All of this is true if it is known that he [the transgressor] knows the laws of shechita. (This is what the Tosafists and Rosh infer from the Gemara. Rabeinu Nissim carried out [the same interpretation] from Rashba.) "And if the knife was not inspected prior to the slaughtering it is forbidden to eat from the slaughtering until the knife has been inspected after the slaughtering." (Gemara in tractate Chullin.) "But it is forbidden to allow him, in principle, to slaughter, even if an observant Israelite witnesses the slaughtering, without the inspection of the knife by an observant Israelite prior to the slaughtering, on the

assumption that that the knife will be inspected after the slaughtering." (Rashba in Torat Ha-bayit)

Paragraph 3: "If a transgressor out of desire slaughters [alone], even if he swears that he has slaughtered with a proper knife [i.e., inspected] he is not to be believed." (Ohel Mo'ed, and the responsum of Ramban, siman 109)

Paragraph 4: "A transgressor out of desire who has slaughtered alone and who possesses two knives, one that has been inspected and another that cannot be used to slaughter, if he says that he has slaughtered with the inspected one, he is to be believed. Even if a piece of meat is in his hand and he says that an expert has slaughtered for him, he is to be believed." (Tur, in the name of Rashba)

Up to this point, the Shulchan Aruch has dealt only with the transgressor out of desire. This transgressor is seen by most of the sages as an Israelite who accepts as valid and binding the commandment concerning shechita. The sages know that this kind of transgressor can be partially trusted. Once someone has inspected the knife for this transgressor, he is not suspected of performing the slaughtering improperly. In the next paragraph the Shulchan Aruch deals with the another kind of transgressor, one who would eat improperly slaughtered meat in order to upset someone (i.e., out of principle, one who denies the authority of this commandment).

Paragraph 5: "A transgressor of even one commandment, who does so in order to upset someone (Tosafists and Rosh of Chullin, page 3 and Rosh. Also Rashba in Torat Ha-bayit. Rashba wrote the same argument contained in the Tur and Beit Yosef. In another words, Rashba and Caro wrote these laws for a mumar who transgresses against the dietary laws out of principle. [Be'er Ha-Gola says that in Caro's Kesef Mishne, to Mishne Torah Hilchot Shechita chapter four he found another rule which says that someone who transgresses one commandment, not specifying the dietary laws, is considered an atheist and, therefore, his shechita is invalid.] or is a transgressor because of idolatry or public profanation of the Sabbath, or is a transgressor of the whole Torah with the exception of idolatry and public profanation of the Sabbath, is still considered like an idolater." (beraita in Gemara Chullin, page five). Isserles adds to this that "if someone is not concerned with ritual slaughtering and he eats forbidden meat out of desire, even though he is not doing it to upset someone he is considered at the same level as a transgressor who eats forbidden meat in order to upset someone." It is important to remember that a transgressor who eats forbidden meat just to upset someone is, as we have seen in other rabbinical works, not considered in the same category as the transgressor who eats out of desire.

Paragraph 6: "For a transgressor of one commandment [except shechita] there is no need for the knife to be

inspected." (Rosh in Chullin, page four). According to Maimonides, the knife has to be inspected, but this applies only to the case of a habitual transgressor of one commandment. "But if the person is disqualified from giving testimony because he has sinned with regard to one of the commandments of the Torah, there is no need to inspect the knife. This also applies to Rambam's view." (Rosh in Chullin, page four). As Rosh wrote: "The person who is disqualified from giving testimony is not considered a habitual transgressor." This, therefore, does not prevent a one-time transgressor from being a slaughterer.

Paragraph 7: "A transgressor of the commandment of circumcision is considered a transgressor of all the commandments." (From the Gemara Chullin, pages five and six) "And if he is not circumcised because his brother died as a result of circumcision, he is considered an observant Israelite." (Gemara Chullin, page five)

Paragraph 8: "The Cuthean's status nowadays is like that of an idolater." (Gemara Chullin, page seven)

Paragraph 9: "The slaughtering of the Saducees²¹ and Boethusians²² is forbidden unless others witnessed the slaughtering and the knife was inspected for them." (Rambam, chapter four)

Paragraph 10: "If the slaughtering is initiated by someone who is disqualified from performing shechita and an observant Israelite completes the slaughtering, or if the

observant Israelite begins the slaughtering and the person who is disqualified from slaughtering completes it, it is considered invalid." (Rashba in Torat Ha-bayit, Chullin, page 19). "Why is this said? Because the disqualified person may begin by doing something that would make the animal carrion [like incorrectly cutting the esophagus or trachea]. But if the disqualified person begins when half of the trachea has been already cut, the slaughtering is considered valid."

Paragraph 11: "If an Israelite and a disqualified person are holding the knife and they slaughter, the slaughtering is considered invalid. And there is no need to say that each had his own knife in his hand." (Mishna, siman 82, Chullin, pages 41 and 72.)

After reading this siman in the Shulchan Aruch, it may be inferred that Caro follows the opinions of the sages, excepting Maimonides. Caro is not as strict as Maimonides, but he does follow Maimonides' view regarding the slaughtering performed by an idolater. In paragraph six of the Shulchan Aruch, Caro includes both his own and Maimonides views. He does not indicate that Maimonides' view is different from his own view, but he does point out that Maimonides' view is the minority opinion.

CHAPTER 2

RESPONSA LITERATURE

This section is an analysis of three responsa. Two were written by Chatam Sofer and one was written by Rabbi Moses Teomim in his work, Union Talita.

In rabbinic terms a responsum is "an exchange of letters in which one party consults another on a halachik matter...³³" This procedure began in Talmudic times even though it did not have important implications.³⁴ The responsa literature began to grow and become an important part of the rabbinic literature during the Geonic period (6th-11th centuries). In the period of the Rishonim (11th-15th centuries), responsa literature developed a more sophisticated rabbinical style of writing. The way in which the Rishonim wrote these responsa shows that a lengthy and detailed style of answering halachik questions was evolving. These responsa were an elaboration and analysis of a certain religious problem.

The Responsa literature is of great value in understanding how the halacha of the time was handled, and even adapted, to those situations in which the halacha does not mention the specific problem that the author of the responsa is being asked to solve. The responsa is a way by which to see how the the light and wisdom of Jewish law are used to solve a problem.

It is clear that the authors of the responsa literature, especially in the following three cases, go beyond the literal meaning of the halacha in order to assure that the ritual slaughterers possess certain moral characteristics that make their status in the Jewish community representative, in one way or another, of the holiness of the ritual slaughtering. The authors of the responsa literature found a way to apply the halacha to any situation presented to them, even if it was not specifically mentioned in the halacha itself.

The author of the first two responsa is known as Chatam Sofer. His real name was Moses Sofer and he was born in Frankfort in 1762 and died in Pressburg in 1839. The second author, Moses Teomim, was born in 1819 and died in 1888. He was the rabbi in Horodenka.

Each of these responsa analyzes a specific situation or conflict that a ritual slaughterer is involved in or creates by not behaving as expected of a religious representative by the community. The task of the authors of the responsa is to use the traditional sources as the basis for the final decision they are asked to make.

Both authors set standards for the "moral behavior" required of a ritual slaughterer. They attempt to prove their points of view by drawing from the traditional literature any analogies that can be applied to the real situation they are confronting and, in this way, to draw a

conclusion based on the halacha. They do not hesitate to go beyond the literal meaning of the law and to reinterpret it so that the case can be solved in light of the halacha.

Responsum of Chatam Sofer, Choshen Mishpat, number 8

This responsum presents the case of a slaughterer from a certain congregation who says that he had intercourse with his sister-in-law and that she is pregnant. He and his wife say they want to get divorced and that, against his will, he shall leave the congregation. All of this is said before the local legal authorities, the beit din. Suddenly the slaughterer retracts his testimony, saying that his initial words were false and that he made the claim because he wanted to abandon the community. And, now that he has resolved his dispute with them, he retracts his testimony concerning the sister-in-law. To Chatam Sofer, it is unthinkable that a "congregation of Israel, which is holy to God" will listen to the words of such a person or that they will eat from his slaughtering, inasmuch as he dared to say such scandalous things about himself before the Rabbinic court.

In the Shulchan Aruch, Choshen Mishpat, chapter 388, number 8, Isserles mentions the following case: If someone says publicly that he will hand over a Jew to violent people he is considered rasha (perverse). Even if he has not yet done so this person is not permitted to swear an oath in

court. People are not allowed to argue on his behalf and say that his words were just a "figure of speech." Once he makes such a claim, his subsequent testimony is disqualified. How much the more so, says Chatam Sofer, in the case of a ritual slaughterer who denies his words. He thus declares himself to be a liar; therefore, his ritual slaughtering cannot be trusted.

Chatam Sofer does not refer to Yoreh De'ah, chapter 2, for his decision concerning the fitness of this slaughterer. He bases his suspicion of the ritual slaughtering of this particular shochet on another halachik rule (Choshen Mishpat, chapter 338, number 8). Chatam Sofer does not say just that this shochet is a rasha and must be removed from his office, but he adds that his slaughtering cannot be trusted.

Chatam Sofer suggests that the ritual slaughterer may have said all of this in order to obtain monetary benefit. Even if his last words are true, how can a person like this be trusted if for a little thing he will debase himself so greatly? What will he do if he loses any money or personal honor or if he is involved in a small argument? Is it not, for this kind of person, acceptable to lie, to say that something is permitted when he knows that it is forbidden? Might he not declare a piece of meat kasher when the animal has not been properly slaughtered?

If his first words are true he must be suspended from

his function, without receiving his salary, until a rabbinical court of three judges can decide what his status will be. In the meantime, says the commentator, the congregation has three choices. They can decide to keep him in office as a ritual slaughterer or as leader of the religious services, or they can discharge the ritual slaughterer from his work until the congregation determines that he is innocent or, if the congregation desires, the slaughterer can be fired.

This is a difficult situation for Chatam Sofer to resolve. He is inclined to be rather severe in his judgement because he sees a moral problem if the behavior of the slaughterer can go to the extreme, that is to say, lying for his benefit or acting immorally. He is also concerned with the community, and addresses the possibility of their keeping the shochet even after he has lied for monetary benefit.

This is a clear example of how exemplary behavior is expected from the ritual slaughterer because he occupies a public position and is, in a sense, partially responsible for the observance of the commandments (i.e., dietary laws) by the community. This responsum shows how important the character of the ritual slaughterer is. He must be a trustworthy and honest person. Chatam Sofer does not mention Yoreh De'ah chapter 2. This chapter provides the halachik ground for the disqualification of the ritual

slaughterer. In this section nothing is mentioned about a shochet who lies before a beit din. However, for Chatam Sofer there is a strong connection between a shochet who lies in front of a beit din and his honesty regarding the ritual slaughtering. It seems that for Chatam Sofer this particular shochet is considered a transgressor and therefore he cannot be trusted.

The conclusion that can be drawn from this case is that a ritual slaughterer can be fired for these two reasons:

- 1) The community does not want an untrustworthy person serving as a ritual slaughterer.
- 2) His immorality makes his slaughtering suspect.

The concerns of Chatam Sofer for the "moral behavior" of the ritual slaughterer are clear in this responsum. It indicates that the ritual slaughterer is considered a religious representative of the Jewish community and that certain conduct can be expected of him. This particular responsum, and especially its conclusion, shows that one of the major concerns of the Jewish community regarding the ritual slaughterer is not only that he master the laws and techniques of slaughtering but also that his "moral behavior" reflect the sanctity that Judaism recognizes in ritual slaughtering. Chatam Sofer bases his entire analysis of the problem on questioning the slaughterer's moral conduct.

Responsum of Chatam Sofer, Choshen Mishpat, number 176

In this responsum Chatam Sofer is asked to decide whether a ritual slaughterer must be removed from his position because he has made fun of a mohel (Jew who performs circumcision) in public by telling him to come to his city and perform the circumcision of his son when, in fact, the slaughterer's wife has given birth to a girl. The mohel has travelled four hours to the slaughterer's village and he is laughed at by the villagers.

Chatam Sofer analyzes the situation from two different perspectives. He says that there is first a monetary problem and secondly a question of fraudulent representation because of the false information given by the slaughterer to the mohel. Chatam Sofer cites a Talmudic passage (Baba Metziah, 58b) to prove that giving false information is prohibited by the rabbis. On page 58b, the rabbis deal with situations in which, in one way or another, false information is transmitted, whether monetary or verbal false information.

In order to prove his point, Chatam Sofer uses the example from 58b in which false monetary and verbal information are given. "...If asssdrivers sought grain from a person, he must not go and say to them: 'Go to so and so who sells grain,' knowing that he has never sold any..."²⁵ In this example Chatam Sofer shows how providing misleading information can affect the monetary standing of a person.

This is the case with the information given by the slaughterer to the mohel. The main point of the Talmudic teaching is "Just as there is overreaching in buying and selling, so is there wrong done by words...²⁶" Therefore "he who publicly shames his neighbour is as though he shed blood...²⁷" This is analogous to what the ritual slaughterer has done.

The Shulchan Aruch Choshen Mishpat, chapter 228, number 4 states that to give false information and mock at someone is to transgress the commandment of lo toru²⁸. Therefore, for Chatam Sofer and the sages, the slaughterer has transgressed the commandment to "do no wrong" by ridiculing the mohel who does not live in the same town as the ritual slaughterer.

As mentioned before, Chatam Sofer also finds that the slaughterer is responsible for monetary damages and that he therefore needs to compensate the mohel for his time and professional services. While the sages did not discuss monetary compensation for public scorn and ridicule, the Shulchan Aruch provides two cases that help Chatam Sofer to reach a conclusion. The first one is found in Choshen Mishpat, chapter 333:1. A group of workers is sent to work in someone's field, but when they arrive at the field they find it flooded. If the owner had not previously inspected it he must pay the workers. However, if the owner did inspect the field the night before, and it was not flooded,

and he decides that the field needs work, but it happens that in the morning the workers find the field flooded, then the owner is not required to pay the workers.

Chatam Sofer compares this case with another case mentioned in Shulchan Aruch, Choshen Mishpat, chapter 334:4. It is the case of a teacher whose student becomes sick. If the student is healthy and happens on one occasion to be sick, or even if he is often sick and the teacher is from the same town, the salary of the teacher need not be paid if he should be prevented by the illness from giving lessons. On the other hand, if the teacher is from another town and the student is often sick, and the teacher has no way of knowing because he comes from far away, the father of the student must pay the teacher his full salary.

The Chatam Sofer relates these two cases to his responsum in the following way: the first case involves field hands, common laborers. The laborer, unlike the mohel, is not a po'el mitzva, who is involved in a ritual act. False information is unintentionally given to the group of workers, but because they are unable to do their job for external reasons they are not paid. This does not apply to the mohel. In the second case, in which a teacher who is considered a po'el mitzva is unintentionally misled, he is entitled to receive his full salary. This is the case of the mohel who, unlike the teacher, was called to perform a commandment under false pretenses created by the ritual

slaughterer. So, for Chatam Sofer, the mohel is entitled to his fee for performing the circumcision plus the expenses for the trip. Chatam Sofer also mentions that according to Jewish law the slaughterer can be excommunicated, but the secular government of the time does not allow it. The law religious law does not permit anyone to be fined therefore, the slaughterer cannot be fined as a punishment for his behaviour.

Chatam Sofer concludes that in this case the slaughterer must come before a beit din (Jewish court). He can be removed from his work until all matters are settled and he repents from his action. Chatam Sofer believes, regarding the transgression of giving false information, that the slaughterer may be suspended from his duty if a beit din finds him guilty as charged.

In this situation the slaughterer need not be removed from his office as long as he pays the damages and expresses regret that he has given false information. Chatam Sofer is not concerned with the character of the slaughterer but with varying levels of severity of transgression. Chatam Sofer is not as strict in this case as in the previous responsum.

In this responsum Chatam Sofer deals with the way in which a ritual slaughterer, a religious representative, is required to relate to others. Honesty and respect for other human beings are important characteristics that Chatam Sofer demands from a ritual slaughterer. It is interesting that

this transgression committed by ritual slaughterer can be forgiven if he compensates the mohel for his work and time. Otherwise if the shochet does not repent and compensate the mohel, he can be disqualified from performing shechita. Chatam Sofer does not concern himself with the validity of the slaughtering performed by this particular shochet. Chatam Sofer has no reason to suspect that this slaughterer will slaughter improperly (like in the case previously discussed). This means that Chatam Sofer is willing to forbid this shochet from performing ritual slaughtering on the basis of his immoral conduct.

Responsum of Orion Telitai, number 83

This posek, Rabbi Moses Teomin, presents the case of a group of slaughterers who have transgressed a law and have also broken the oath that they accepted regarding ritual slaughtering and the inspection of the knife. The posek never tells what the actual transgressions are but it is clear from the context that the slaughterers did something immoral in the eyes of the community and of the commentator. The posek proves the guilt of the slaughterers by including the opinions of other sages and answering the following question: Are these men forbidden to practice ritual slaughtering for the community?

He begins by mentioning that, for Maimonides, if one is

suspected of robbery it does not necessarily mean that he is suspect concerning his ritual slaughtering. The posek agrees with this statement but he argues that it can only apply to those slaughterers who are not permanent slaughterers of the community. In other words, there is no need for inquiring on the moral character of the temporary shochet before it is permitted to eat from his shechita. Also the Tosafists, quoted in the Shulchan Aruch, Yoreh De'ah, chapter 1, mention that for a transgressor of any one commandment of the Torah, other than the dietary laws, there is no need to inspect the knife. But nowadays, the commentator continues, when a permanent ritual slaughterer is appointed, the community expects him to observe the laws of kashrut and to fear God.

The commentator also tells the community that if a beit din (Jewish court) has already made a decision regarding the slaughterers it is proper to trust the court's decision. If the slaughterers violate the decision of the court they may be suspended from their work as ritual slaughterers.

The slaughtering performed by this particular group of slaughterers will be considered invalid only for those people in the congregation who believe or know what the witnesses against the slaughterers have said. They are still fit to perform the ritual slaughtering for the rest of the community since they have a certificate from a teacher (i.e., chacham) and recognition from other permanent

slaughterers. This goes against those who want to fire the slaughterers and replace them. In other responsa it has been explained that the slaughterer cannot be compared with a common worker and that he should not be treated as such. The common worker (po'el) cannot be removed from his work on the basis of mere suspicion. On the other hand, the shochet can be fired on mere suspicion that he has acted improperly.

The commentator introduces a responsum of Maharshal (Solomon b. Jehiel Luria, 1510-1574, Poland) in which he says that if half the community wants to remove the slaughterer and the other half wants to keep him in his position, the community cannot remove him from his office while his contract is still valid. Even if the whole community wants to dismiss the slaughterer, says Maharshal, they are not allowed to fire him. They may reduce the length of his contract but they must pay the slaughterer all the money that he would have earned from performing slaughtering through the initial period in his contract. This is so if the ritual slaughterer has not committed a moral transgression. If he has committed a transgression two or three times he may be removed from his work, even against the desire of the whole congregation. If it is found that the shochet has slaughtered improperly by accident, and although there are no legal grounds to remove the slaughterer from his work, if strict people do not trust that particular slaughterer and will not eat from his

slaughtering, the wishes of these people cannot be disputed because they do this in the name of Heaven. However, they cannot stop the slaughterer from receiving his salary until the last day of his contract.

In the opinion of the commentator, Maharshal's opinion is questionable. In the Talmud, Baba Batra, 92a, we find that if someone sells a slave and finds out that the slave is a thief, (all slaves are normally considered thieves. This could probably be the reason why they were sold into slavery), this does not create a blemish on the sale. "...[If] one sold to another a slave who was found to have been a thief or a gambler the sale is valid..."

It is written in the Shulchan Aruch, Coshen Mishpat 233:10 that a slave cannot be returned because of a defect if that defect does not prevent him from performing his job, whether the slave has bad breath or smells bad or even if he is a thief. These will not interfere with his work. In the case of slaves with a physical defect that will prevent them from performing their work satisfactorily, then the buyer is allowed to return the slave. In the responsum Shevut Ya'akov, vol. 1, number 174, specifies that this is in the case of a Canaanite slave. In the case of the Hebrew slaves, if the slave is a thief, he is considered to have a blemish upon him. The owner may dismiss him without having to wait out his contract. There is no need to pay his contract even if there is no testimony against the slave.

Mere suspicion is sufficient.

There is another case, mentioned by Isserles, in the Shulchan Aruch, Choshen Mishpat 421:6 in which a person who has a servant suspected of theft can fire that servant before the contract is over, even if there is no proof against the servant. This is also the law in the responsum concerning the case of the slaughterers. Anyone suspected of doing wrong can be fired. They can be removed even before the contract is over, and there is no obligation to pay the salary that they would have made through the end of the contract. Even if there is no clear testimony against them this is the principle that rules the situation.

It is known that if someone buys something and finds it unsatisfactory or cannot use it, he is allowed to return it.³⁹ The same applies to the slaughterer and his merchandise. It is enough for people to say that they do not want to eat certain meat and they are entitled to a refund. The congregation does not have to pay the slaughterer. In Even Haezer, chapter 40 says that even an engagement can be broken if there is suspicion.

For the commentator the problem with the slaughterers is resolved in the following way: If the slaughterer did not transgress the specific religious law that invalidated the ritual slaughtering, he is, in theory, fit to perform the ritual slaughtering. In any place that the community wants to keep the slaughterer, they are allowed to do so. When

the community does not want to keep him because his work is not seen as proper, they need not keep the slaughterer. This is because, concerning the judgments of the laws of ritual slaughtering, the work (i.e., the slaughtering) must be perfect and the slaughterer must fear God publicly. On that stipulation the slaughterer was hired in the first place. Therefore, even if the slaughterer did not transgress the laws of ritual slaughtering he can be removed from his office since the validity of his work is now questioned in the community.

The posek's view is that the ritual slaughterer has to maintain moral, religious and ritualistic conduct that indicates him to be responsible and aware of the holiness of ritual slaughtering. The posek does not ignore the fact that, according to Yoreh De'ah 1 and 2, the ritual slaughterer can be removed from his work only for transgressions against the dietary laws. He is of the opinion that the rules found in Yoreh De'ah 1 and 2 only apply to the permant shochet. The posek mentions that the shochet can be removed if the congregation suspects him, even if he has not transgressed the dietary laws. This means that his work is not considered valid before the standards of the congregation, which expects the ritual slaughterer to be a Jew who has "fear of Heaven." Therefore, he must not only observe all the commandments but he must also behave in a moral fashion.

This responsum brings in an important factor, the power of the community to impose its standards on the ritual slaughterer. Rabbi Moses Teomim does a sophisticated study of the halacha in which he makes the reader aware of the difference between a regular worker and a ritual slaughterer. It is on the basis of this difference that the community expects a religious attitude from its ritual slaughterer. The community is the ultimate source of decision on what to expect from its ritual slaughterer in terms of moral behavior. There is no doubt that for Rabbi Teomim the ritual slaughterer must be a religious and ethical Jew.

Conclusions -- Halachik and Responsa Literature

Upon examining the different sections of the halacha that deal with the characteristics of the ritual slaughterer, it is possible to summarize the halacha's view on the moral behavior(s) of the ritual slaughterer as follows:

a) The classic halacha does not provide a set of minimum moral standards that a ritual slaughterer must have in order to hold such an important office in the Jewish community.

b) The classic halacha is not overtly concerned with the moral behavior expected of the ritual slaughterer. The halacha is concerned only with matters of ritual and knowledge of the process of slaughtering. Contrary to what is commonly expected, the halacha requires of the ritual slaughterer merely a mastery of the act of slaughtering and the basic laws surrounding it in order for him to perform the ritual slaughtering.

The only "moral" concerns found in the classic halacha are those regarding the ritual slaughterer who profanes the Sabbath publicly or practices idolatry. These two kinds of transgressions worried the sages because, for them, if someone transgresses the Sabbath publicly or practices idolatry he is openly rejecting the value of Judaism and its commandments. The person who commits these two transgressions is placing himself out of the community.

Therefore, he is prohibited by the Biblical commandment to perform ritual slaughtering. The Biblical verse in Leviticus 12:21 specifically says "...and you shall slaughter..." in which "you" refers only to someone who belongs to the community.

The only section of the traditional literature that deals with the moral conduct of the ritual slaughterer is the responsa section of this work. In this section the modern halachik authorities react to the fact that the codes do not confer any importance on ethical and moral values regarding the ritual slaughterer. It is here that a practical, real-life application of the halacha occurs. The poskim had to depart from the peshat (simple) meaning of the laws, which deals with the ritual slaughterer's religious obligations, (Yoreh De'ah, Chapters 1 and 2) in order to come up with new regulations for the moral and ethical behavior of the ritual slaughterer. They had to learn the moral and ethical values from other laws and then to apply and relate them to the ritual slaughterer. They were creating their own new halacha based on the need to approach the subject of the ritual slaughterer from a halachik perspective. This creativity with the sources is best illustrated in the way that Orion Talitai deals with Chapters 1 and 2 of Yoreh De'ah. For him, these laws may be used only in the case of the shochet who is not working full-time in a community. He believes that the requirements

for the shochet who works full-time in a community must have a moral and ethical base separate from the halachik one.

The authors had to find a connection between the halacha and the solution to the problem they faced. The solution to the particular problems mentioned in the three Responsa is that despite the fact that the traditional rabbinical literature does not specifically mention ethical and moral values, they can certainly be deduced from other sources and situations.

It seems that the halacha was the theoretical ground from which the rabbis departed in their constant attempt to use the halacha as the basis for rulings. The way by which the poskim handle the sources is a wise one. However, the responsa literature puzzles. It is impossible to know whether the poskim arrived at conclusions which they had determined before searching the halacha or whether they are indeed the result of an elaborated legal process. The Responsa literature is a symbol of how the halacha accommodates itself to the changing needs of the community. The Responsa literature seems to answer many questions. It is now our task to decide whether we agree not with the procedure used by the poskim but with the result of the application of such a process.

The halacha shows clear development throughout the years. The Mishna begins by stating the basics for the ritual slaughterer; from there discussions enlarge the issue and the ramifications of various solutions until the halacha

is developed into its final form in the codes. The halachik image of the ritual slaughterer has changed throughout the years as a result of a change in the conditions and demands that the Jewish community has imposed upon the ritual slaughterer. The Responsa show how these demands, which began as halacha, became moral demands as well.

CHAPTER 3

SOME MORAL AND ETHICAL CONSIDERATIONS

In this section, some of the relevant modern literature regarding ritual slaughtering and the ritual slaughterer is presented. I will also examine the Reform approach to the dietary laws and ritual slaughtering.

Shechita in the Modern World

It is not comfortable to be reminded that any time someone is eating a piece of meat an animal had to be killed. Throughout centuries this idea has puzzled and disturbed people. There have been all kinds of arguments against shechita, the Jewish ritual slaughtering of an animal. Many different reasons have been given for the validity of this particular method of slaughtering.

Religious, philosophical, humane, social and scientific explanations have been offered. None of them have convinced the majority of non-Orthodox Jews of the necessity for such a ritual. None of these explanations provides the real reason for the existence of such a religious ritual.

There have been numerous arguments in favor of and against shechita. Religious arguments in favor of shechita apply, of course, to the spirit rather than to logic.

"Ritual slaughter of animals in preparation for eating is prescribed in Biblical law and explained in the Talmud in

detail...⁴⁰" This sentence alone presents no rational basis but it does describe, in depth, the religious validity that shechita has for the observant Jew who considers the Bible and the Talmud as holy books that contain all the laws by which a Jew must live. Because God commanded so, the laws must be observed without question.

The main arguments against shechita originated in anti-Semitic organizations that have tried to extinguish Jewish ritual from the earth.⁴¹ For the most part, these anti-Semitic actions are based not on logical or scientific explanations, as the organizations have claimed, but on hatred alone.⁴²

Do any valuable reasons exist for the modern Jew to observe the dietary laws that traditional Judaism commands? What is the value of observing the laws concerning food? This significant and difficult question has long been debated among Reform Jews.

From a religious and historical perspective, the dietary laws and ritual slaughtering have guided the religious life of the Jews. These laws have even separated the observant Jew from the less observant Jew. It is not uncommon to refer to someone as an "observant Jew" if he observes the dietary laws and buys meat that has been ritually slaughtered.

One reason often given by modern Jews for observing the dietary laws is that it offers them a feeling of belonging,

of being part of social and religious group. It is clear that these people are looking for a deeper meaning for the dietary laws than simply that God commanded at Sinai.

Seymour E. Freedman believes that the observance of the laws of kashrut can be defined as a "moral force."

The laws of Kashrut, which monitors the foods observant Jews may eat, are much like those of Sabbath, which monitor the activities and thoughts of those Jews who appreciate its message and abide by its traditions. The laws of Kashrut create a spiritual atmosphere that lasts not only for the period of the meal itself, but also throughout the entire day, refining encounters with other human beings through an established and internalized weltanschauung of compassion that encompasses all life.⁴²

The argument of moral force is, undoubtedly, a familiar argument in favor of the practice of ritual slaughtering. This argumentation is used especially by those who find in the observance of the dietary laws a spiritual element for their religious life. However, the ritual itself, the method of slaughtering and the moral characteristics of the slaughterer have been questioned by any modern observant Jew. A good proof for this is the fact that so many books have been written about the subject. In many cases the author is an observant Jew who needs to examine the subject in greater depth (i.e., Dayan Dr. I. Grunfeld The Jewish Dietary Laws).

As mentioned before, ritual slaughtering has been attacked by different groups and organizations. The Society for the Prevention of Cruelty to Animals has been a strong

enemy of ritual slaughtering.

Even though Jewish authorities have tried to point out that cruelty to animals is forbidden, ritual slaughtering has still faced many problems.

The terms **humane** and **slaughter** represent a conflict. Slaughter cannot be humane by any method, for slaughter is cruel. And yet, the slaughter of animals being a necessity, it must be performed as humanely as possible.⁴⁴

Judaism is a faith concerned not only with the well being of human beings but with that of all other living creatures as well. However, as much as this last statement is true, the slaughtering ritual does raise serious problems when viewed in light of what actually occurs during the slaughtering ritual in comparison with more recently developed methods of slaughtering.

It may seem that shechita is inhumane because it has to be performed when the animal is conscious. No electro-narcosis or anaesthetics are allowed prior to the slaughtering. These conditions make ritual slaughtering more cruel than the modern secular way of slaughtering animals in which the animal is stunned relatively painlessly prior to the actual slaughtering.

At this point it is necessary to become familiar with the different ways in which an animal can be ritually slaughtered.⁴⁵ It is unusual for a religious ritual to have more than one way of being performed correctly, especially

if that ritual is believed to have been commanded by God. Yet shechita may be performed in several different ways that are all acceptable under strict Jewish law. These many possibilities of performing the ritual of slaughtering may indicate that shechita was a system that developed and changed throughout the years. It was probably influenced by the various Jewish communities.

Shechita on the prostrate animal--

"In older times the animal was thrown down by tying its feet...⁴⁶" This way of preparing the animal for slaughter may seem painful. In order to prevent the animal from suffering more than necessary prior to the shechita, Jewish law allows tying together a maximum of three of the animal's feet before it is thrown down.⁴⁷

Shechita on the reclining animal after casting with special machines--

A machine called the rotating pen is designed to avoid the necessity of tying the legs of the animal and throwing it down. The animal is adjusted in the machine and then the pen is rotated 180°. This places the animal on its back with its legs up. The knocking pen is "a modification of the shooting pen which is used in many non-Jewish abattoirs."⁴⁸ This machine works in two stages. In the first stage the animal is put into the pen by opening one side. In the second stage, the pen is opened, causing the animal to slip out. At that moment the slaughtering takes place.

Shechita on the suspended animal---

By suspending the animal it is said that pressure is avoided in the knife and, therefore, derassa (pressing upward or downward during the slaughtering) is prevented. Two systems have been developed to practice this particular method of slaughtering. In one system the animal is put into a rotating platform that causes the animal to be turned around and therefore to be suspended with its four legs in the air. In the second system one leg of the animal is attached to a mechanism that lifts the animal into the air. When the entire animal is suspended shechita takes place.

Shechita on the standing animal---

The animal is introduced into a special machine known as the "kill pen." Shechita takes place at an angle of 45° upward. "The halachik status of this method is still under discussion."⁴⁰

Shechita has been part of the Jewish faith for so long that any logical explanation will contradict the very essence that the Orthodox Jew perceives in the slaughtering ritual. To discuss the subject of ritual slaughtering from a purely logical perspective would be absolutely useless. Shechita can only be understood from two different perspectives, either as a religious command or as a symbol of Judaism, which had at some point in history some validity which no longer applies in modern times. This means that shechita, as well as the dietary laws, needs a new

dimension, a new role, in the life of the modern Jew, especially the non-traditional Jew.

For the Orthodox, the validity of ritual slaughtering is well expressed in the words of Dr. I. Grunfeld.:

The ultimate reason of the validity of the Dietary Laws is the simple fact that God commanded them. Our own speculation, however successful that it may be, can never have the same value as the simple conviction that it is God who in His infinite wisdom ordained these laws for our benefit.⁵⁰

The Slaughterer as Religious Representative of the Jewish Community

The ritual slaughterer has always been associated with the image of a pious, observant, and merciful Jew. However, that image is not mentioned in the traditional literature regarding the shochet. In medieval times the rabbis agreed to allow only certain individuals to perform ritual slaughtering. These included only those men who passed an examination to prove their competency regarding the laws and procedures of ritual slaughtering. No requirement was made that these shochtim pass a moral examination.⁵¹

In other words, the pious image of the ritual slaughterer is not based on halachik requirements but on social obligations to the community. The ritual slaughterer, as indicated by his title, is not a common butcher but someone who is performing a religious ritual. As

Seymour E. Freedman points out concerning the ritual slaughterer:

The person who becomes a shochet cannot be someone from the dregs of society who slaughters simply because he can wield a polaxe, or thrust a sword coldbloodedly into the heart of a steer, or shoot it in the head...A shochet is a scholar whose training is designed to make him sensitive and humble. He is a religious person whose commitment is to a life of sanctity. His is a profession, a high calling. He performs a holy task...⁵²

The moral demands that history has put upon the ritual slaughterer show the concern of the Jewish community for the moral attitudes of its religious representatives. In the same manner that the community expects its rabbi to display good moral conduct, the shochet is also categorized as a reflection of a particular community. It is important to keep in mind that none of these moral expectations are described in the traditional rabbinic literature. Either the sages were not concerned with the moral life of the shochet, or these moral expectations were so ingrained that they did not feel the need to discuss their expectations regarding the morality of the ritual slaughterer. As has been shown, concern with the moral behavior of the shochet appears for the first time in the responsa literature.

The ideal shochet is still that person who is a true believer in the holiness of ritual slaughtering, an individual who will never commit any possible corruption, whether in his private life or his commercial activities.

Those who observe the dietary laws consider having to

deal with any kind of corruption in the kosher foods industry a tragedy because of the sanctity accorded to the dietary laws and ritual slaughtering by most traditional Jews. Most corruption in the kosher foods industry is motivated by money. When it occurs only one can only ask: Where is the sanctity of the religious slaughterer? Where is that pious Jew who performed the ritual because God commanded it?

The shochet is still expected to be an honest and ethical representative of the Jewish community. The expectations for the ritual slaughterer are high and demanding.

Reform Perspective on the Dietary Laws

The dietary laws have been a concern since the beginning of the Reform movement. The dietary laws and ritual slaughtering have been neglected by the majority of the members of Reform institutions. In the well known Pittsburgh Platform there was clear general agreement that the dietary laws are not relevant:

We hold that all such Mosaic and rabbinical laws as regulate diet, priestly purity, and dress, originated in ages and under the influence of ideas altogether foreign to our present mental and spiritual state. They fail to impress the modern Jew with a spirit of priestly holiness; their observance in our days is apt rather to obstruct than to further modern spiritual elevation."²

This statement represented the official view of the Reform movement, though many individual Reform Jews did observe the dietary laws at that time. The Reform movement is aware of the holiness of food and that it is a gift of God. The dietary laws, however, are no longer a serious concern for the Reform Jew. The truly educated Reform Jew need not choose from the all-or-nothing approach regarding the observance of the dietary laws. "...a large number of Reform Jews observe a modified form of the dietary laws by abstaining from pork products, animals specifically prohibited, seafood, and the mixing of meat and milk."⁴

This modified observance of the dietary laws excludes the purchase of meat which is ritually slaughtered. There are many possible reasons for avoiding ritually slaughtered meat, from the high prices to the lack of identification with the beliefs and practices of the ritual slaughterer. The Reform Movement does not oppose ritual slaughtering as long as the taking of life is done with reverence and respect, as if it were a holy task.

CHAPTER 4

CONCLUSIONS

To come to a definite and final conclusion regarding the validity of ritual slaughtering is a complicated and difficult task since the validity and necessity of such a ritual cannot be determined by using only rational or religious arguments but must be accomplished by employing a combination of both. These two aspects, the rational and the religious, can be opposite to each other, further complicating the process of arriving at a satisfactory conclusion concerning the value and status of ritual slaughtering for our times.

The different aspects of the rabbinical literature concerning the ritual slaughterer and his implications as a religious officer of the community have been studied and analyzed. One question that needs to be considered is that among the major groups of Judaism there is general disagreement over the reason for observing the dietary laws.

For the Orthodox Jew the reason is simply because God has commanded so. There is no place for questioning the validity of the ritual itself or the importance of the moral behaviors of the ritual slaughterer. In the classical literature the rabbis were not, it seems, concerned with the morality of the shochet. Only in the later rabbinical

literature (responsa) does one find the community expressing serious concern with the moral behavior of the shochet in order for him to be recognized as an officer and representative of the congregation.

Conservative Judaism considers the dietary laws and ritual slaughtering essential components of the Jewish religious experience. The Conservative Movement allows the Orthodox to monopolize the kosher foods industry. They do this not only because they do believe, at least in principle, in the validity of the dietary laws and ritual slaughtering, but ultimately because the Conservative Movement does not seem to have a well-organized structure that will permit them to be independent from the slaughtering performed by an Orthodox shochet. The Conservative Movement considers the dietary laws to be an important aspect of the fulfillment of the mitzvot. A serious and dedicated Conservative Jew will, at least, observe the laws of kashrut at home and try to avoid any non-kosher meat that might be served in a restaurant or in a friend's house. The Conservative Jew is not so concerned with the spirituality and honesty that ritual slaughtering requires and with the moral behavior of the shochet. This is not because Conservative Jews do not care about society or moral values in human beings, but because, for them, the practice of the ritual may be more important than the ethical processes that surround every Jewish ritual.

On the other hand, the Reform Movement views the rituals (not only the dietary laws) from a different perspective. The ritual must be alive, the commandment must have ethical value, in order for it to be meaningful to the individual who is observing it. The kind of ritual and who performs it are important aspects in the acceptance of a particular ritual by a Reform Jew.

The Reform Movement was built on the basis of making Judaism a more honest and relevant religion for the modern Jew, who sometimes loses the link between himself and Judaism because of the seeming lack of meaning in certain rituals.

The questions the Reform Movement needs to answer are not whether or not observance of the dietary laws makes someone a better Jew or if the ritual of slaughtering is important. The true challenge the Reform Movement faces regarding the dietary laws is how to offer to those who wish to observe the dietary laws and the ritual of slaughtering a religious process in which honesty and ethical values are the primary, and perhaps only, goal. The Reform Movement has an obligation, as a representative body of those Reform Jews who want to observe the dietary laws, to fight the system and make demands from the kosher foods industry. The Reform Movement has always based the value of religion on the value of the institution. This is also true in the case concerning ritual slaughtering, the ritual slaughterer, and

in a broader sense, the dietary laws. The Reform Movement needs to change the concept that observance of ritual slaughtering and the dietary laws is only for Orthodox Jews. The Reform Movement must influence the kosher foods industry so that its operation reflects our highest moral concerns.

When I started my research in the rabbinical literature I was quite disappointed because I did not find any moral demands on the person who takes the life of an animal so that humans may eat. As I studied the Responsa literature I perceived the need of different authors to find morality not only in the ritual slaughterer, but in the whole system of rituals. The authors of the responsa were not able to finish the task of giving sanctity to ritual slaughtering or the dietary restrictions. They applied the written laws and codes so that a certain moral value would develop as a result of their analysis.

The task of the Reform Movement is, in a sense, similar to that of the authors of the responsa literature. The Reform Movement must develop the Biblical commandment "...you shall slaughter as I have commanded you..." into a true and meaningful system for the new generation of modern Jews who look for values and not for orders.

Unfortunately, the issue of ritual slaughtering and the observance of the dietary laws is not an issue that troubles most Jews. Members of a Jewish more commonly community

concern themselves with Israel or with anti-Semitic attacks. Seymour E. Freedman ends his chapter on corruption in the kosher foods industry by giving an opening to the work of the Reform Movement, saying:

Kashrut, like motherhood, is an aspect of traditional Judaism which everyone accepts and no one attempts to delve into until illegitimate forces enter it and endanger the sacred institution...perhaps some courageous voices will find the chutzpa to raise some serious questions and insist upon the answers to them. The result will inevitably be that the deceptions will end, or at least become greatly limited, and, hopefully a new era of Kashrut observance will arise within the Jewish community. ■■

Only time will tell if the kosher foods industry will be able to survive under the demands of a new generation of Jews who look for meaning and not just conformity to God's order. Change will be the only way in which the value of kashrut can be preserved. This change may very well occur in the kind of people who perform the ritual and also in the performance of the ritual itself. There is a urgent need to find a valuable reason for having a ritual slaughterer and for performing ritual slaughtering in a certain way. When this is found then a new era will begin for the Jewish dietary laws.

The fact that the majority of Jews do not observe the dietary laws may be attributable to the present lack of spirituality associated with the process and the ritual slaughterer. With a change in the structure the holiness of the dietary laws can be restored, even if this means the

creation of a new system of performing ritual slaughtering and a new set of expectations for the ritual slaughterer. Ritual slaughtering and the dietary laws have the potential to nurture an aspect of Jewish identity that is missing from the new generations of Jews. Food is a basic and daily element that can help us to maintain an ethical attitude towards life. Slaughtering must recover its ritualistic aspect so that the Jewish community, in general, can find in it the required Jewish reminder. A group of determined and committed Jews is needed to challenge the kosher foods industry and to restate its values and goals. Then slaughtering will become a holy ritual and the ritual a necessity for the sensitive Jew.

NOTES

1. Jacob Epstein, Mabo Lenusach Hamishna, Vol. 2, pp. 665-665.
2. The Samaritan, uncircumcised man, and apostate are people who have rejected the value of oral law and the traditions. Therefore, they are thought to be discluded from the word hakol.
3. The word min has no convincing etymology. It is understood to mean heretic or sectarian and was used to cover many different kinds of heretics and sectarians.
4. This phrase is not included in the version of Tosefta found in the printed edition of the Babylonian Talmud.
5. See Babylonian Talmud Temurah 2a. "...What additional case is included by [the word] all...?"
6. See Deuteronomy 12:21
7. The meshumad is considered an apostate, a Jew who has converted to another religion.
8. E.E. Urbach, The Sages, Their Concepts and Beliefs. (Jerusalem, Israel: Magnes Press, The Hebrew University, 1975) Chapter VI, p. 116.
Encyclopaedia Judaica. Vol.12, Cols. 1-3. Keter Publishing House.
9. See Babylonian Talmud Zebahim, 31b.
10. They are often called Samaritans. They practice certain Jewish laws based especially on the written law of the Torah. (Jastrow Dictionary)
11. Leviticus 19:14.
12. Pause, press or thrust.
13. See Babylonian Talmud Avoda Zarah, 61a.
14. That "all may slaughter..." refers to an unclean person performing the slaughtering.
15. See Babylonian Talmud Chullin, page 5a. This statement is similar to the one in Tosefta 1:1.
16. Ibid.
17. Ibid.

18. Ibid.
19. That the transgressor out of desire is allowed to perform shechita. Such a transgressor is considered to be opposed to the practice of shechita.
20. See Babylonian Talmud Chullin, page 5a.
21. Ibid.
22. See parallel pasage in Hilchot ha-Rosh 1:7 in tractate Chuullin.
23. Issac Ben Jacob Alfasi, 1013-1103, the author of Sefer ha-Halachot, the most important code before Maimonides' work. Rif was obligated to move to Spain and he stteled in Lucena. It is said the Rif closed the gaonic period.
24. See A Guide to Jewish Religious Practice by Issac Klein
25. Adret, Solom ben Abraham. 1235-1310, "Spanish rabbi an one of the foremost Jewish scholars of his time. Adret wrote collections of responsa as well as novellae to 17 tractates of the Talmud. For more information see Encyclopaedia Judaica Vol. 2, col. 305.
26. Aaron ben Joseph Ha-Levi. 1235-1300, Spanish rabbi ad halakhist. Aaron wrote critical comments to the work of Adret called Bedek ha-Bayit. He also wrote novellae to the Talmud only those to three tractates have survived. For more information see Encyclopaedia Judaica Vol. 2, col. 14.
27. Rabbi Yitzchak ha-Zaken.
28. See end of section of Mishne Torah.
29. See Mishne Torah section.
30. Encyclopaedia Judaica, Vol. 15, col. 421; "Resident strbanger." This proselyte was seen in a different category by the rabbis. He was a non-Jew who accepted some of the commandments and was therefore allowed to live in Israel. This ger could be someone who has renounced the practice of idolatry to the one who accepts all the commandments with the exception of the the dietary laws (Avoda Zarah, 64b).
31. Sect of Jews of the latter half of the Second Temple period that was created primarily by the upper class, priests, merchants, and aristocrats.
32. A religious and political sect that existed during the

century before the destruction of the Second Temple.

33. See Encyclopaedia Judaica, Vol. 14, col. 83. See also Freehof: The Responsa Literature.

34. See Babylonian Talmud Yevamot, 105a and Chullin, 95b.

35. See Shulchan Aruch, Choshen Mishpat, 232:2.

36. See Babylonian Talmud Baba Metzia, 58b.

37. See Mishna Babylonian Talmud Baba Metzia, 58b. For Chatam Sofer this is exactly what the shochet did. He deceived the mohel by words.

38. The verse refers to the situation in which a stranger resides in the land of Israel; the people should not "wrong him" because the people of Israel were themselves strangers in the land of Egypt. See Leviticus 19:33.

39. See Shulchan Aruch, Choshen Mishpat, 232:2.

40. Munk and Munk, Shechita: Religious, Historical and Scientific Aspects, p. 15.

41. Ibid.

42. Ibid., p. 20.

43. Seymour E. Freedman, The Book Of Kashrut (Bloch Publishing Company), p. 2.

44. Munk, Shechita: Religious, Historical and Scientific Aspects, p. 107.

45. The titles for the slaughtering techniques are taken from Munk and Munk, Shechita: Religious, Historical and Scientific Aspects, pp. 115-120.

46. Ibid., p. 115.

47. Joseph Caro, Shulchan Aruch Yoreh De'ah 36, 14.

48. Munk and Munk, Shechita: Religious, Historical and Scientific Aspects, p. 117.

49. Ibid., p. 120.

50. I. Grunfeld, The Philosophical And Moral Basis Of The Jewish Dietary Laws (London Hillel Foundation, 1961).

51. Encyclopaedia Judaica, Vol.14, col. 1338.
52. Seymour E. Freedman, The Book Of Kashrut (New York: Bloch Publishing Company), pp. 30-31.
53. Walter Jacob, ed., American Reform Responsa (New York Central Conference of American Rabbis), p. 129.
54. Ibid., p. 130.
55. Seymour E. Freedman, The Book Of Kashrut (New York: Bloch Publishing Company), p. 190.

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