

Tsaar Baalei Chayim and the Issue of Factory Farming

Rayna Ellen Gevurtz Zylberman

Rabbinic Thesis

February 6, 2001

Table of Contents

| | |
|--|-----|
| Explanation of Formatting in Thesis | 2 |
| Introduction | 3 |
| Section I: Tracing the Value of <i>Tsaar Baalei Chayim</i> in Halachic Literature | |
| Introduction | 6 |
| Chapter 1: Translation of Primary Source Material | |
| Talmud | 8 |
| Halachic Literature | 32 |
| Responsa | 55 |
| Chapter 2: Discussion of Bava Metzia 32A-33A | 61 |
| Chapter 3: The Character of <i>Tsaar Baalei Chayim</i> , A Discrete, Toraitic <i>Mitzvah</i> | 68 |
| Chapter 4: <i>Tsaar Baalei Chayim</i> in Relation to Other Values. | |
| Part I: <i>Tsaar Baalei Chayim</i> Continues to Operate. | 73 |
| Chapter 5: <i>Tsaar Baalei Chayim</i> in Relation to Other Values. | |
| Part II: <i>Tsaar Baalei Chayim</i> is Suspended. | 79 |
| Conclusion | 92 |
| Section II: An Introduction to Factory Farming | |
| Introduction | 94 |
| Chapter 6: Layer Chickens | 98 |
| Chapter 7: Broiler Chickens | 106 |
| Chapter 8: Dairy Cows | 110 |
| Chapter 9: Veal Calves | 117 |
| Chapter 10: Beef Cattle | 123 |
| Conclusion | 127 |
| Section III: Reconciling Tradition with Reality | |
| Introduction | 128 |
| Chapter 11: There is No Problem or We are Ignoring the Problem | 130 |
| Chapter 12: Animals May Not be Raised Under Factory Farming | |
| Conditions | 135 |
| Chapter 13: Change What We Eat | 139 |
| Conclusion | 147 |
| Conclusion | 149 |
| Glossary of Terms | 161 |
| Table of Abbreviations | 163 |
| Works Cited and Consulted | 164 |

Explanation of Formatting in Thesis

The transliteration used within this thesis is based upon Werner Weinberg's "Hebrew Transliteration According to Israeli Pronunciation." Except for a few commonly known Hebrew words, all Hebrew and Aramaic words are italicized in order to facilitate comprehension. In Ch.1, the translation section, italicization is also used to distinguish between text and additional commentary upon that text. Also within this section parenthesis are used to fill in elliptical language as well as to clarify ambiguous translation.

Introduction

“Life on Old Macdonald’s Farm isn’t what it used to be,” according to PETA (People for the Ethical Treatment of Animals), an international non-profit animal rights organization.¹ On today’s farms, laying chickens are raised in overcrowded cages and debeaked with hot searing knives- that is, if they are female. Most male layer chicks are “useless” and are therefore thrown live into garbage bags to suffocate or into shredding machines to be turned into food for the other chickens. Calves that are raised for veal are taken from their mothers a day or two after birth and placed in tiny dark cages with their heads chained in place to prevent licking the bars. For these bars may add iron to these animals, and the sign of “good” veal is pale flesh, which is produced by iron deprivation. Cattle that are raised for the beef industry are overfed, then castrated, de-horned and branded without anesthetics and finally shipped in overcrowded trucks to be slaughtered. And this is just scratching the surface...

Today’s farms, often termed “factory farms” for their production line approach to animal rearing, offer a sharp contrast to the Jewish tradition’s teaching of *tsaar baalei chayim*, the value of preventing the suffering of or cruelty to animals. In Bava Metzia 32a-b, the Talmud concludes that this is a *deoraita*, or toraitic obligation. Moreover, many other passages raise *tsaar baalei chayim* as a guiding value in connection with specific behaviors towards animals.

The obvious question arises: How does factory farming measure up in the eyes of Jewish law and teaching about treatment of animals? In an age in which the majority of Jews support factory farming through their consumption practices, this is a critical

¹ People for the Ethical Treatment of Animals (PETA), “Factsheets: Vegetarianism, Factory Farming: Mechanized Madness,” retrieved Aug. 2000, <<http://www.peta-online.org/mcmfacts/fsveg3.html>>.

question from both a legalistic and moral perspective. Is Jewish consumption of these products permitted under traditional law? The goal of this thesis is to examine this question.

An important note must be inserted at this point. This thesis is not an attempt to search out the authoritative corroboration for a particular modern viewpoint. That is, while there are often authors who begin with a perspective, such as animals rights, and look backward to the texts for support, the attempt of this thesis is to work first through the text and then to objectively examine the current situation.

Thus, the first step in this investigation, Section I, will be a thorough translation and discussion of the relevant sources on the law of *tsaar baalei chayim*. This will include texts from the Talmud, later halachic codes as well as responsa literature. By examining this large body of literature, as opposed to just reading the simple biblical text, an attempt will be made to understand the workings of this law within normative rabbinic Judaism. Not only will Section I focus on the actual law of *tsaar baalei chayim*, but it will also present the various ways that this law manifests itself when interacting with other values such as the laws of Shabbat and the weight of human needs. In order to begin to lay the groundwork for understanding its operation today these interactions must be examined. Is there flexibility concerning this law? What defines the boundaries of this flexibility?

The next step in this investigation, Section II, will be to provide a general overview of the current production of animal based food products. While this section will not provide every minute detail concerning the raising of these animals, it will present sufficient information for the purposes of this thesis. The major question to be

answered in this section is: Under what circumstances do these animals live? Please note that this section will not be focusing on the *shechitah*, the ritual slaughtering process. There have been many studies into this area. Rather, the focus of this investigation is the actual lives of the animals *before* the slaughter.

After a thorough investigation of tradition and current practices, the next step, Section III, will address the ultimate question of how to reconcile these facts. Does the tradition permit Jews to support the factory farming industry? Does factory farming break Jewish law? In Section III, the various responses to these questions will be presented from Jewish communities across the denominational perspective. For some there is no problem with the current practices. Others, however, do find discrepancy between traditional teachings about treatment of animals and the modern reality. Moreover, many within this camp have made suggestions as to what the Jewish community needs to do in the face of this discrepancy.

Finally, in the Conclusion, the various perspectives of this investigation will be integrated and analyzed. How well has the question of factory farming been answered in Jewish circles today? Which answers seem to overlook the teachings of tradition concerning *tsaar baalei chayim* and which jump too far? Where does an objective approach to the reality through the eyes of the text naturally lead the modern Jew? What is the “right” path for our contemporary Jewish community to follow in the light of the modern realities of the animal rearing practices?

Section I

Tracing the Value of *Tsaar Baalei Chayim* in Halachic Literature

The purpose of this section is to trace as well as to analyze the talmudic and halachic discussions of *tsaar baalei chayim*. While it does not claim to be all-inclusive of every mention of the treatment of animals within Jewish law, this section will attempt to highlight the main discussions of the topic. As one of the primary goals of this thesis is to present *tsaar baalei chayim* according to the strictest halachic meaning possible, this section will not focus on the biblical laws nor the *midrashim* about the treatment of animals, unless, of course, they are used by the Talmud or the later law codes. In order to facilitate the reader's understanding of the material, the first chapter will present translations of the relevant *sugyot* as well as halachic writings to which references will be made throughout the subsequent discussion.

The starting point for a halachic discussion of the rules of the treatment of animals is Bava Metzia (BM) 32A. It is within this *sugya* that *tsaar baalei chayim*, the *mitzvah* of preventing suffering of animals, is presented and analyzed in terms of its toraitic significance. By thoroughly looking at this discussion, the foundation is set on which to build an halachic understanding of the concept. After looking at BM 32 the discussion will move on to three major areas. First of all, it will attempt to establish the basic character of *tsaar baalei chayim* according to the *sugya* as well as later commentary and understandings of it. The next two chapters will discuss the ramifications of the nature of this *mitzvah* on its interactions with other Jewish laws and values. This is a crucial section in the overall thesis, as the *halachah* it contains will be used in the discussion of the current factory-farming situation. There will be two major questions addressed:

When does *tsaar baalei chayim* take precedence over other issues? On the other hand, what issues do our tradition deem important enough to call for the suspension of *tsaar baalei chayim*? By examining these issues, it is hoped that the reader will come away with an insight into the normative Jewish law concerning *tsaar baalei chayim*.

Furthermore, with such an understanding, the framework will be set for examining the realities of modern food production.

Chapter 1

Translation of Primary Source Material

Translation Section 1: Talmud (Presented in order of tractate.)

Brachot 40A

Gemarah (on the discussion of interrupting blessings)-

- I. Rav said- (One who says) “Take (the bread, it’s already been) ‘blessed’ ” “take and etc. bless, he does not need to bless (again). (One who says), “Bring the salt, bring the relish,” he does need to bless (again).

RASHI

TAKE (THE BREAD, IT’S ALREADY BEEN) BLESSED-

One who says a berachah, then breaks off a piece of the bread, gives it to another, and says, “take from the bread over which the blessing has been said.” But even though spoke in the meantime, (between the blessing and the eating) he doesn’t need to return to bless. And although conversation is considered an interruption, as they say in Menachot: if he speaks between the two tefilin (between the prayer over hand and over head tefillin) one needs to bless, and so with the covering of blood (of a slaughtered animal). But this conversation is for the purposes of the blessing (has to do with the blessing). And so it was not an interruption.

(The memrah continues)

But R. Yohanon said- Even if he says, “bring the salt, bring the relish” also then he doesn’t need to bless (again). “Mix for the oxen, mix for the oxen”, he needs to bless (again).

RASHI

BRING SALT- *Also he doesn’t need to bless, that even this is part of the purpose of the blessing so that there will be taste to the piece that is blessed.*

MIX FOR THE OXEN- *Mix their grain with water according to the need of oxen.*

- II. R. Sheshet said- Even “mix for the oxen”, also he doesn’t need to bless (again). As R. Yehudah said Rav said- It is forbidden for a man to eat before he gives food to his animal, as it says, “And I will give you grass in your field for your animal,” and afterwards, “and you will eat and be satisfied,” (Dt. 11:15).

Chullin 7B

(Jumping into the middle of a *maaseh* about R. Pinchas b. Yair, who was supposed to be hosted to dinner by Rebi.)

When he (R. Pinchas b. Yair) came (to the house of Rebi), it happened that on that entrance there were standing in it white mules. He said, "The Angel of Death is in his house and I will eat in his place?"

RASHI-

WHITE MULES- *That they wound and the wound does not become healthy again as (is said) below. (I.e. they are symbols of death because they are dangerous animals.)*

Rebi heard and went out toward him. He (Rebi) said to him, "I will sell them."
He (R. Pinchas) said to him, "Before a blind person do not place stumbling block."

(Rebi said), "I will declare them ownerless."
(R. Pinchas responded) "You will enlarge the danger. "

(Rebi said), "I will mutilate them:

RASHI

I WILL MUTILATE THEM- *So they will not be able to kick and there is not the issue of bal tashchit (wanton destruction, i.e. destroying a natural resource) since they are (still) fitting for threshing. Laceration of their feet and they will still be able to walk.*

(R. Pinchas responded), "(If you do that) there is (the issue of) *tsaar baalei chayim*." :

(Rebi said), "I will kill them."
(R. Pinchas responded), "There is the issue of *bal tashchit*."

He (Rebi) stood there begging him very persistently. A mountain rose up between them. Rebi cried and said, "Just as in their lives, all the more so in their deaths."

Shabbat 117B

Mishnah- We save (from fire on Shabbat) sustenance of three meals. That which is fit for a person (save) for a person; That which is fit for an animal (save) for an animal. Why (three meals)? If a conflagration takes place on Leil Shabbat we save three meals. (If the fire takes place) in the morning we save two meals. (If the fire takes place) at *mincha* (we save) one meal. R. Yosi says- After all (for all situations) we save three meals.

Gemarah-

- I. Since with the permitted he is moving let him (save) more? (Stam raises question- Can he save more since food is not *muktseh*?)

RASHI:

SINCE WITH THE PERMITTED HE IS MOVING-*It is permitted to move the food, and he's moving it to a courtyard in which an eruv exists.*

- A. Rava said- Since a person is excited about his property, if it is permitted to him (to save more), he may come to extinguish it (the fire).
1. Abaye said to him- But here it is taught in a *baraita*- A wine jug was broken on top of his roof. He may bring a vessel and lay it under it (the jug). Provided that he doesn't bring another vessel and clutch (the wine), another vessel and stand it close (to the roof).
(A *kashya* to Rava's position by this *baraita* that is also limiting but does not involve possibility of breaking Shabbat).
- a. There, what is the decree? There is also a decree in the case he brings a vessel by way of thoroughfare. (Stam offers *terutz* that the possibility is that he may carry the vessel through public ground that is forbidden.)
- b. The thing itself (the same *baraita* continued)- A wine jug was broken on top of his roof. He may bring a vessel and lay it under it, and only so he doesn't bring another vessel and clutch (the wine), another vessel and stand it close to it. (If) guests are visiting him and he (can) bring another vessel and collect, another vessel and stand it close. But he can't collect and then invite guests. Rather he invites guest and collects. But he can't act subtly to get around the law! In the name of R. Yosi b. Yehudah they said- He can act subtly to get around the law.

- (1) Shall we say in the dispute of (the Rabbis and R. Yosi we find a similar idea as) the dispute of R. Eleazar and R. Yehoshuah, as it was taught (in a *baraita*) – It (an animal) and its offspring fell into a well. R. Eleazar says raise the first in order to slaughter it and make for the second food in its place in order that it won't die. R. Yehoshuah says we raise the first in order to slaughter it, but we don't slaughter it. And so we act subtly to get around the law and we raise the second. If one wants he may slaughter this and if one wants he may slaughter the other.
 (Stam brings this *baraita* to show that it is okay to act subtly to get around the strict letter of the law. In this case R. Yehoshuah acts subtly to save financial loss. The question is, does this parallel the situation with the wine? Would he also agree that we can invite guests over in order to collect more wine?)

RASHI:

FELL INTO A WELL- On *Yom Tov*, (when it's permitted to slaughter an animal for food if it is to be eaten on that day.) Since both of these animals cannot be slaughtered on the same day (one can only do the *melachah* required to bring up one of them on *Yom Tov*).

- (a) How do we know (these are similar arguments)? Perhaps here R. Eleazar didn't say there that it is possible with bringing food. (Perhaps R. Eleazar's argument is meant to apply only *there*, in the *oto ve'et beno* case, because it's possible to sustain the animal that remains in the well.) But here, (where) that it is not possible- no.
 (Stam says that the *baraita* case may not be analogous to wine case. In the case of the well, one can stay within the confines of the law by bringing sustenance to the animal. However, R. Eleazar may have permitted bending of the law in wine case, where a solution that stays within the confines of the law may not be possible)

- (b) There R. Yehoshuah said- This (lenient ruling) because there is the issue of *tsaar baalei chayim*. But here there is no *tsaar baalei chayim*- no.
(Stam explains that R. Yehoshuah would only permit acting subtly to get around the law in the case of the animals down the well because of *tsaar baalei chayim*.)

Shabbat 128B

Mishnah- We may turn over the basket before young birds in order to raise them up and lower them. A hen that has escaped, we push her until she enters. And we help move calves and foals. A woman helps to move her child. R. Yehudah said- When? In the time that he (the child) takes one (foot) and puts down one (foot). But if two feet, it is forbidden.

Gemarah-

I. R. Yehudah said Rav said- If an animal fell into an enclosure of water (on Yom Tov), one may bring pillows and cushions and place it under it. And if it rises up, it rises up. (Which means that you would not have to carry *muktseh*).

A. They object (an objection is raised from a tanaitic source) – “An animal that fell into an enclosure of water, one brings it sustenance in its place in order that it doesn’t die.”

1. Sustenance, yes. Pillows and cushions, no.
(Stam explains the objection and a *kashya* is raised since there is a disagreement between Rav and the Rabbis on how to deal with an animal that has fallen into a hole of water on Yom Tov.)
2. No difficulty, since there (in the case that the Rabbis refer to) it is possible with sustenance and there (in Rav’s case) it is not possible with sustenance. When it is possible to sustain the animal with sustenance (without bringing pillows and cushions) yes (one should do that). And if not, he can bring pillows and cushions and lay them under it.
(Stam offers *terutz* by distinguishing the cases.)

RASHI

AND IF NOT- *For example, that the water is (too) deep.*

- (a) But surely he nullifies the vessel from its preparedness.
(*Kashya* is raised that by having animals use the pillows, they can no longer be moved from that place since they have become *muktseh*)

RASHI

BUT SURELY HE NULLIFIES THE VESSEL-

From putting them under it, he is not able to move them because it is similar to dismantling a building, which is a rabbinic (Shabbat prohibition).

- (b) He holds that nullifying a vessel from its preparedness is rabbinic, and *tsaar baalei chayim* is toraitic. And the toraitic comes and supercedes the rabbinic.

(Stam offers *terutz*, explaining that Rav holds that the rabbinic rules of a vessel's preparedness on Yom Tov are overruled by the toraitic rule of *tsaar baalei chayim*)

RASHI

TSAAR BAALEI CHAYIM IS TORAITIC-

As it says, "you shall surely help with him" (Ex 23:5). And there are those (i.e., an opinion already stated in the Talmud) that expound the reason is because of tsaar baalei chayim in these situations.

Shabbat 154B

Mishnah- (If) one who (is traveling) and becomes over taken by Shabbat nightfall- he gives his purse to a Gentile and if there is no Gentile with him, he lays it upon the ass. If he arrives to the outside courtyard (of the city), he moves the vessels that are movable on Shabbat. And those that are not movable on Shabbat, he releases the ropes and the pouches fall from them.

Gemarah- (Skipping to relevant Gemarah.)

- I. It was taught (in a *baraita*) that R. Shimon said- If his ass was carrying a pouch of grain, he lays his head under it and lifts it up to the other side. And it falls from it. The ass of R. Gamliel was packed with honey but he didn't want to unload her until Motzei Shabbat. By Motzei Shabbat, she died.

RASHI

CARRYING- *A burden of grain that hasn't been tithed.*

- A. Behold, don't we learn (in our mishnah)- He can move the vessels that may be moved.
(Stam raises *kashya* against actions of R. Gamliel, since honey is not considered *muktseh* and therefore he could have unloaded his ass.)

RASHI

BEHOLD DON'T WE LEARN- *And honey is moveable on Shabbat. And so why didn't he want to unload it?*

- B. When it fermented.
(Stam offers *terutz* that R. Gamliel did not take it off because it had fermented and was no longer edible, therefore it was indeed *muktseh*.)

RASHI

WHEN IT FERMENTED- *Soured.*

- C. And when it fermented, for what is it fit? (I.e. why was he carrying it?)

RASHI

FOR WHAT IS IT FIT? - *Why did R. Gamliel bring it?*

1. For the scabs of camels.

RASHI

FOR THE SCABS OF CAMELS- *For the sores of camels, "raduishadoda". (An Old French word that Rashi uses to translate the unfamiliar Aramaic)*

- D. But he should have released the ropes and the bags would have fallen.

RASHI

RELEASED THE BAGS AND THEY WOULD HAVE FALLEN- *That here it teaches in our mishnah about this matter about an item that is not moveable. But the two bags may burst the leathers in their falling to land.*

(Rashi explains here the next comment, which answers the kashya.)

1. The bags may have burst.
2. He should have brought pillows and cushions and laid them under them (under the bags).
 - (a) It would have soiled it. And behold, he would be nullifying a vessel from its preparedness. (The pillows could no longer be used on Shabbat)

RASHI

IT WOULD HAVE SOILED- *In the matter that they spill on them and so it would cancel the preparedness of the vessel. So that again there is no purpose for them on that day.*

- (b) But behold, (what about the issue of) *tsaar baalei chayim*?

RASHI

BUT BEHOLD, TSAAR BAALEI CHAYIM- *And it is toraitic and so it supercedes the rabbinic (law) of the cancellation of the preparedness of a vessel.*

- (c) He (R. Gamliel) thought that *tsaar baalei chayim* is rabbinic.

RASHI

HE THOUGHT- *R. Gamliel (said) tsaar baalei chayim is rabbinic. And it is disputed in chapter Eilu Metzi'ot (BM 32).*

Beitzah 26A

Mishnah- A firstling that fell in a pit (on a Yom Tov). R. Yehudah says- An expert goes down and he looks at it. If there is on it a blemish, he raises it up and slaughters (it). If not, he does not slaughter. R. Shimeon says, all that didn't have a recognized blemish during the day (before the actual Yom Tov), this is not preparedness. (The Mishnah describes a case in which a first born animal has fallen into a pit on Yom Tov. The dilemma is that a bechor may not be hauled out of the pit to be slaughtered on a Yom Tov unless one is sure it has a permanent blemish. If not, it would be considered *muktseh*, as it is a bechor without a blemish, and should only be slaughtered at the Temple.)

RASHI

A FIRSTLING THAT FELL IN A PIT- *A firstling during this time (i.e., after the destruction of the Temple) is not slaughtered without a blemish because it is considered sanctified since it is automatically holy (sanctified from the moment of birth). And one who slaughters him when he is unblemished (is punished under the rubric of) one who slaughters the sanctified outside (the Temple) (an act) that is punishable by koret.*

THAT FELL IN A PIT- *And he (its owner) fears lest he die there.*

AN EXPERT- *One who is versed in blemishes to test whether it is a permanent or a temporary blemish.*

IF THERE IS ON IT A BLEMISH- *One must conclude that R. Yehudah holds it is muktseh if the blemish happened on the Yom Tov (and it is) not permitted since he didn't know about it (i.e., he wasn't planning on slaughtering the animal) from yesterday (the day before the Yom Tov). But this is what he said (I.e. this is how we interpret his position) that it is a firstling with a blemish that the expert had not seen yet that day to permit it and it fell in a pit on Yom Tov. So the expert goes down to see the blemish that happened yesterday. If it is a permanent blemish, he may raise it and slaughter because it is not muktseh since from yesterday he knew about it.*

THIS IS NOT PREPAREDNESS- *(R. Shimeon) does not take this position because of muktseh, because he doesn't accept the concept of muktseh. Rather, (if he says, "this is not preparedness," his objection is that one who examines the animal on Yom Tov and) he declares it permitted is like one who makes an improvement (in the animal's status on Yom Tov). (This is forbidden), since it's tantamount to sitting as a judge over a legal matter on Yom Tov, which the Rabbis prohibit as a shevut. This is how we interpret R. Shimeon's position: The expert's permit is not a permit at all, and the animal is therefore not prepared for approval for consumption on Yom Tov.*

Gemarah-

- I. About what do they argue?

- A. Let us say about the examining of the blemishes they argue. (I.e. explaining this construction) that R. Yehudah holds they examine the blemish on the Yom Tov, but R. Shimeon holds that they do not examine blemishes on Yom Tov.
- B. Objection: Let them disagree about examining blemishes ordinarily. (I.e., why do we have to talk about “an animal falls into a pit”?)
(The Stam is clarifying the argument in the mishnah. They disagree about examination of a bechor on Yom Tov, without the added caveat of it falling into a pit.)
1. We need to mention a firstling that falls into a pit because if we didn't, you might think that because of *tsaar baalei chayim* (we can) go around the law and raise it as R. Yehoshuah (Beitzah 37A). It (the Mishnah) comes to tell us (that R. Yehudah doesn't permit taking an animal out of a pit to check a blemish).

RASHI

TO RAISE IT LIKE R. YESHOSHUAH- *Who said in Mashilin (Beitzah 37) that if na animal and its offspring fell into a pit, one lifts out the first on the condition that he will slaughter it, but he doesn't slaughter it. And he returns and lifts the second. He slaughters the one he wants.*
(Note that this is a situation in which R. Yehoshuah is lenient due to financial loss.)

2. If so, (if that construction is correct) “he does not slaughter” (should be emended to) “he does not raise it up and slaughter it.” (*Kashya* raised by Stam that if the mishnah meant tell us not to go around the law, then why does it not also forbid one from raising the animal out of the pit which one might be tempted to do to relieve the pain of the animal?)
3. No. It was needed (the words *lo yishchot* in our mishnah) in the case of if one broke the law and brought it up. You might think I would say (he is permitted) to slaughter. It (the mishnah) comes to tell us (not to slaughter).
(*Terutz* by Stam saying that the mishnah is talking about a specific circumstance in which he has already raised it up, and the mishnah is necessary to say that he is not then permitted to slaughter it.)

RASHI

NO. IT WAS NEEDED IF ONE BROKE THE LAW

AND BROUGHT IT UP- *From the beginning of the mishnah, we learn that he should not lift (the animal up to examine it) but that he should descend (into the pit) and examine it. It then tells us a second thing: that if he went ahead and lifted the animal up, he may not slaughter it.*

(Gemarah continues on to further explain what the mishnah is meant to tell us.)

Bava Metzia 32A

Mishnah- If one finds in a dairy, he is not obligated to it. (If one finds it) in the public domain, he is obligated to it. And if it was in the cemetery, he should not make himself impure by it (i.e., if he's a Kohen). If his father says to him that he is make himself impure or tells him not to return (it), he should not listen to him. If he unloaded and loaded, unloaded and loaded, even four and five times one is obligated (to do it again if necessary), as it says, "You shall surely help" (Ex 23:5). If he (the owner) goes and he sits and he says, "Since this commandment is upon you, if it is your will to unload, unload", he (the passerby) is exempt, as it is said, "with him"(ibid.). If he (the owner) was old or sick, he (the passerby) is obligated (to unload and load by himself). The commandment in the Torah is to unload but not to load. R. Shimeon said- (The commandment also requires him) to load. R. Yosi the Galilean said – If he (the animal) had upon him more than his (its) normal load, he (the passerby) is not obligated, as it says, "under his burden" (ibid.), burdens that he is able to stand under.

Gemarah- (Skipping to relevant Gemarah.)

- I. It is a *mitzvah* from the Torah to unload but not to load. (Quote from mishnah)
 - A. What is (the meaning of) this- "but not to load"? If you say (it means) "but not to load at all, what is different about unloading? Because the Torah says (about it), "you shall surely help him" (Ex 23:5) (i.e., in any event)? About loading it is also written "you shall surely raise him up" (Dt 22:4) (i.e., in the same textual terminology, so that there seems to be no difference between the two acts on this point).
(Stam points out *kashya* that loading is also commanded.)
 - B. Rather, "it is a *mitzvah* from Torah" to unload for free and not to load for free, but rather for a compensation.
(Stam offers *terutz*.)
 1. R. Shimeon (who in the mishnah disagrees with this statement "*mitzvah min hatorah* etc." is now understood to say) - Also loading is for free.
(This is the Stam reinterpreting the statement of R. Shimeon as it reinterpreted the statement of the *Tana Kama*. They're both now talking about payment for loading the animal. If *Tana Kama* says one may demand compensation, R. Shimeon, who says "*afliton*", must be saying that "even loading" must be done for free.)
 2. We have already learned this in a *baraita*: "Unloading is for free, loading is done for a reward. R. Shimeon says both are done for free."
(The Stam quotes the *baraita*, which supports the interpretation just given on the mishnah.)

- a. What is the reason of our Rabbis (i.e., of the *Tana Kama*)? That if R. Shimeon is correct, then it should (only) be written in the Torah “loading”, and “unloading” would not be needed. For then I could say- “Just as in loading, which does not involve suffering to animals and with which there is no material loss connected, he is obligated, in unloading, in which there is suffering to animals and material loss, all the more so! Rather, for what law (i.e. for what halachic purpose) did the Torah write (about “unloading”)? To say to you that unloading for free. Loading is for a reward. (Stam explains both sides of this debate beginning with the reasoning of the Rabbis: If both are for free, like R. Shimeon says, then the Torah only needed to write unloading as loading could be derived from *kal vachomer*. But since loading is also written, it must be to distinguish them.)
- b. And R. Shimeon- What is the reason (behind his position)? Because the reading isn’t clear.
(The words, *lifrok* and *liton* do not clearly refer to loading or unloading. So if only one had been written we would not know it was loading and therefore could not make a *kal vachomer*, as the *Tana Kama* use)

RASHI

BECAUSE THE READING ISN’T CLEAR-*To establish the sense of loading, and therefore if it was written once, I would say for unloading it came (and if that were the case, there’s no possibility for a kal vachomer, since that argument must begin with “loading”).*

- c. And the Rabbis? (How do they respond to the above reasoning?) (They would say): Why is the reading not clear? Here it is written, “*rovetz*, lying under its burden” (Ex 23:5) and there it is written, “*noflin*, fallen in the way” (Dt 22:4), the animals have fallen and their loads are lying on the road.

RASHI

LYING UNDER ITS BURDEN-Meaning that one needs to unload.

THAT BOTH IT AND ITS PACK WERE THROWN IN THE ROAD- *Its pack, too, is on the ground so that it needs to be loaded.*

- d. And R. Shimeon? (How does he respond to the above?) He says “fallen in the way” – “that they (the animals) have fallen and their pack upon them” is meant.

(Stam explains how R. Shimeon would respond back to Rabbis. He says that *noflin* could mean pack still on animal and needs unloading.)

3. Rava said – From the words of both of them we have learned that the prevention of suffering to animals is a toraitic obligation. And even R. Shimeon only takes his position because the text isn't clear. But if the text was clear (about loading) he would have made the same *kal vachomer*. (Rava offers a *terutz* saying that if R. Shimeon had thought that the verse was clear he would have agreed with the Rabbis reasoning. That is, like the *Tana Kama*, he holds that “unloading” is a more stringent obligation than loading).

RASHI

FROM THE WORDS OF BOTH OF THEM- *Since both of them said that unloading is preferable/more important.*

AND EVEN R. SHIMEON ONLY TAKES HIS POSITION- *That (the Torah) needs to write unloading.*

BECAUSE THE TEXT ISN'T CLEAR- *About loading. (I.e., it doesn't clearly refer to “loading”).*

4. Because of what (would we use *kal vachomer*)? Is it not because of (the obligation concerning) *tsaar baalei chayim* that we would use it?

RASHI

IS IT NOT BECAUSE OF *TSAAR BAALEI CHAYIM* THAT WE WOULD USE IT? - *And thus you derive that just as for loading it is impossible to say there is *tsaar baalei chayim* but it is obligated, in the case of unloading where you can say there is the issue of *tsaar baalei chayim*, all the more so (should it be obligated). (In other words, *tsaar baalei chayim*, must be toraitic to drive the *kal vachomer* to make unloading a command.)*

- a. Perhaps it is because there is a loss financially and thus he said just as loading, which does not prevent financial loss is an obligation, unloading which does prevent a loss, all the more so. (Stam brings *kashya* to Rava's conclusion that *tsaar baalei chayim* must be toraitic, saying that *kal vachomer* could be based on financial reasons).
- b. And loading doesn't have financial loss? Aren't we engaged in (a situation that) in the meantime he (the owner of the animal) is suspended from his market? Or (another reason why “loading” would help forestall a financial loss) also, if thieves come and take all that he has with him.

(Stam offers *terutz* saying that loading also involves financial loss, so that financial loss is not driving the *kal vachomer*.)

RASHI

AREN'T WE ENGAGED IN- *Doesn't the verse speak of a case where the owner is on his way to market so that if the animal's load falls he can't do business during that time?*

- (1) (Responding to above suggestion) And you should know that *tsaar baalei chayim* is toraitic as was taught in the end (of the above mishnah), R. Yosi the Galilean said – if he had upon him extra on his pack, he (the passerby) is not obligated, as it says, “under his burden” (ibid.), burdens that he is able to stand under. Is it not by implication that the first tana holds that he (the passerby) is obligated (even if the pack is too heavy). What is the reason? Is it not because *tsaar baalei chayim* is toraitic?
(The Stam brings R. Yosi's statement from the mishnah to show that the Rabbis and R. Shimeon disagreed with R. Yosi and Stam concludes this must be on basis of *tsaar baalei chayim*.)

RASHI

YOU SHOULD KNOW- *That for both the Tana Kama, who disagree with R. Shimeon, and for R. Shimeon himself tsaar baalei chayim is toraitic.*

IS IT NOT BY IMPLICATION THAT THE TANA KAMA- *Of R. Yosi the Galilean, our Rabbis and R. Shimeon.*

HE IS OBLIGATED- *And why is he obligated to him? If because of the mitzvah “you shall surely help” behold it is written “his burden”. It is apparently because tsaar baalei chayim.*

- (2) Perhaps, (it is only that) about “under his burden” that they disagree: R. Yosi holds that we expound “under his burden” (as) burdens that he is able to stand under. But our Rabbis hold that we do not expound “under his burden”.
(Stam rejects this proof, saying that the Rabbis and R. Shimeon didn't interpret “under his burden” and therefore believe he's obligated no matter what. So, there is no connection to *tsaar baalei chayim*.)

RASHI

BUT OUR RABBIS HOLD THAT WE DO NOT EXPOUND “UNDER HIS BURDEN”- *As a burden*

fitting him (rather) that his burden (means) all his burden that is on him.

- c. Know that *tsaar baalei chayim* is not toraitic since in the beginning (of the mishnah) it is taught- (If he goes and he sits (the owner) and he says to him (the passerby), "Since the *mitzvah* is upon you, if it is your will to unload, unload", he (the passerby) is exempt. As it says, "with him". And if it comes to your mind that *tsaar baalei chayim* is toraitic, what is the difference whether the master is together with him or not together with him?
(Stam says *tsaar baalei chayim* not toraitic based on the part of the mishnah that exempts the passerby from unloading without the help of the master. If it was toraitic, reasons the Stam, then why would it matter if the master helped out or not?)

RASHI

KNOW- *That all this is knocked down, since tsaar baalei chayim is not toraitic*

- (1) I still insist that *tsaar baalei chayim* is toraitic. Do you think that "exempt" means completely "exempt"? Perhaps he is exempt from doing it for free but obligated for a reward. And this is what the Merciful One said, for if the master comes together (and does it with him) he works beside him for free. And if the master doesn't come together (with him) he works beside him for a reward. Therefore, *tsaar baalei chayim* is toraitic.
(Stam rejects about reasoning, saying that passerby is only exempt from doing it for free. However, he must still do it and therefore, *tsaar baalei chayim* is toraitic.)

RASHI

HE WORKS BESIDES HIM- *Because tsaar baalei chayim and he (the owner) is forced to give him a reward.*

(Inserted here is a mnemonic used to remember the ideas that follow)

- d. Shall we say that it (the following *baraita*) supports him (Rava, who said that *tsaar baalei chayim* is toraitic)? – "An animal of the idolaters, one takes care of it as an animal of a Jew. It is all right if you say that *tsaar baalei chayim* is toraitic (and) because of that one cares for it as an animal of a Jew.
(Stam brings *baraita* to support *tsaar baalei chayim* is toraitic)

RASHI

SUPPORTS HIM- *Rava, who said above that tsaar baalei chayim is toraitic.*

TAKES CARE OF IT- *To unload its burden*

- (1) Rather, if you say *tsaar baalei chayim* is not toraitic, why does one care for it as an animal of a Jew?
(Stam raises *kashya*.)

- (a) There because of preventing enmity.
(Stam offers *terutz*)
- (b) That is also intelligible (I.e. it seems to be the reasonable interpretation). Since it is taught there- "if it was loaded with forbidden wine, one is not obligated to it."
(Backs up *terutz* with *baraita*)

RASHI

IF YOU SAY THAT IT *TSAAR BAALEI CHAYIM* IS NOT TORAITIC- *And the reason is for the sake of preventing hostility. Because of this one is not obligated to it. He is able to slip away and to say this is a forbidden thing for us.*

- (c) This is all right if you say that it is not toraitic and therefore, behold, one is not obligated to it. But if you say that it is toraitic, why are you not obligated to it?
(*Kashya* raised by Stam, if *tsaar baalei chayim* is toraitic, then why does *baraita* exempt one from unloading even in order to avoid hostility?)
- (d) This is how we should understand the *baraita* - "and for loading with forbidden wine he is not obligated."
(Stam offers *terutz* by pointing out that *baraita* exempts from loading forbidden wine, not unloading.)

RASHI

AND SO IT SAYS FOR LOADING- *I still insist it is toraitic to care for it in unloading or loading. Unloading because tsaar baalei chayim and loading because of preventing*

enmity. But loading forbidden wine, that doesn't involve tsaar baalei chayim or enmity, one is not obligated to do.

- d. Come and hear (a new *baraita*)- An animal of idolaters and its pack of a Jew, "and would you refrain" (Ex 23:5). And if you say that *tsaar baalei chayim* is toraitic, so why does it say, "and would you refrain"? "You shall surely help" it should say.
(Stam says *tsaar baalei chayim* is not toraitic based on this *baraita*)

- (1) I still say that *tsaar baalei chayim* is toraitic. There (that *baraita* refers to) loading, (not unloading).
(Stam rejects this reasoning saying that it is toraitic and *baraita* only referring to loading)

RASHI

THERE IN LOADING-Below, the Talmud will object- "It's talking about unloading".

- (2) If so, the end (of the *baraita*) says, "An animal of a Jew and the pack of an idolater, you shall surely help" But if it is about loading, why should you surely help?
(Stam raises *kashya* saying that the end of the *baraita* says that you must help. If this is about loading, what is the reason that one must help?)
- (3) Because of the pain of the Jew.
(Stam brings *terutz*, another reason why one would have to load, besides *tsaar baalei chayim*)

RASHI

BECAUSE OF THE PAIN OF THE JEW-
That he needs to tarry there.

- (4) If so, even the first part also.
(Stam raises *kashya* that thus the first part of the *baraita* must also demand one to help because of the pain caused to the Jew, because his pack is not loaded)
- (5) But the first part is about an ass driver who is an idolater and the end, the ass driver is a Jew.
(*Terutz* by Stam by differentiating the parts of the *baraita* according to whom is driving the animal)

RASHI-

THE ASS DRIVER IS AN IDOLATOR-

And the owner of the burden is not there and it is upon the idolater to load.

- (6) What is the difference? Ordinarily, a person goes after his ass.

RASHI

WHAT IS THE DIFFERENCE- *That you differentiate the matter thus- that all ass drivers that are idolaters drive asses of idolaters and all Jewish ass drivers have asses of Jews.*

- (7) But behold “and you must refrain” and “you shall surely help” about unloading it is written.
(Stam brings *kashya* saying that in Torah these statements are not about loading, rather unloading.)

- (8) “Rather, who said this (*baraita*)? It is R. Yosi, the Galilean, who said, “*tsaar baalei chayim* is not toraitic.”
(Stam solves this by saying that it is R. Yosi speaking in the *baraita* and we have already recognized that R. Yosi doesn’t hold that it is toraitic)

- e. Come and learn (a new *baraita*)- “(If you come upon) a friend (who needs) to unload, and an enemy (who needs) to load it is a *mitzvah* (to help) the enemy in order to bend your will.” And if it should come to your mind that *tsaar baalei chayim* is toraitic, surely it is preferable.
(Stam brings new *baraita* to show that perhaps *tsaar baalei chayim* is not toraitic. For if it were, one would surely have to unload for you friend since this is a case of pain to animal).

- (1) Even so, in order to bend his will, it is preferable.
(Stam explains that *tsaar baalei chayim* could still be toraitic in this case, but it is still more important to subdue your own yetzer.)

- f. Come and learn (a new *baraita*)- “ ‘An enemy’, as Scripture said, refers to a Jewish enemy and not an idolatrous enemy” (Psachim 113).

RASHI

AN ENEMY- *You first thought, an enemy as Scripture said was an enemy that scripture refers when it speaks of unloading because, “you see the ass of you enemy lying down...” (Ex 23:5).*

- (1) If you said *tsaar baalei chayim* is toraitic, what difference is it to me that the enemy is a Jew or an idolater?
(Stam says that in either case, if it is toraitic, one would have to unload first.)
- (2) If you think that the enemy spoken of here (in this *baraita*) is the one spoken of in Scripture (in connection to the obligation to unload), (it is not so). About the enemy from the *baraita*, (in reference to (e) about where it says that it is preferable to load for your enemy, now it says that that enemy is a Jew.)

RASHI

THE ENEMY FROM THE *BARAITA*- *The above baraita that the enemy needs loading. (Since this is not related to the obligation to unload in Ex 23:5, it does not affect whether or not tsaar baalei chayim is toraitic)*

- g. Come and learn (from a new *baraita*)- It is lying down- and not that it always lies down. It is lying -and not standing. Under his burden- and his burden hasn't been unloaded yet. Under his burden- a burden that he is able to stand under.
- (1) Now if you says that *tsaar baalei chayim* is toraitic, what difference does it make if it is lying down or if it always lies down? Or if it is standing?
(Stam raises *kashya* with this *baraita*, saying that if *tsaar baalei chayim* is toraitic, then *baraita* would not distinguish between these different positions of the animal)
 - (2) Whose (*baraita*) is it? It is R. Yosi the Galilean, who said that *tsaar baalei chayim* is rabbinic. So, it

appears to be reasonable that it taught there (in the *baraita*) – under its burden- a burden that it can stand under. Who did you hear who thinks thus? R. Yosi the Galilean (said this) we learn from it. (Stam offers *terutz* again by attributing this to R. Yosi)

- (a) And who finds to establish it like R. Yosi the Galilean? For isn't it taught at the end (of the *baraita*) "under its burden" and "hasn't been unloaded yet".
(Stam questions the attribution, as we have nothing else that puts these two clauses together with R. Yosi)
- * What is "hasn't been unloaded yet"?
If you say (you are not obligated to help) an unloaded one at all, behold it is written, "You shall surely raise him up with him, " (Dt 22:4).
(Stam raises *kashya* that this phrase contradicts Torah)
 - * This is the teaching (you don't help) an unloaded (animal) for free, rather for a reward.
(Stam brings *terutz* that this *baraita* means you are not obligated to load for free).
 - * From whom do you hear who thinks like this? The Rabbis (i.e., the *Tana Kama* of the mishnah!)
(This goes back to *kashya* in (b) above. How could this *baraita* be attributed to R. Yosi, if it seems to also represent the opinion of the Rabbis?)
 - * I still say it is (the opinion of) R. Yosi the Galilean and about loading he thought like the Rabbis.
(Stam offers *terutz* that on this point, loading for a reward, the Rabbis and R. Yosi agreed.)

Avodah Zarah 8A- 11A

Mishnah- And these are the festivals of the idol worshippers- Calnda and Saturnura and Cartisim and the Day of ascent to the throne by their royalty and (the king's) birthday and the day of (their) death. These are the words of R. Meir. But the Sages said, all death (i.e. funerals) that has at it a fire, there is there idol worship. But ones that do not have at it a fire there is not idol worship there. But the day of shaving one's beard or locks and the day that was saved from drowning or the day that one goes out from prison or an idol worshipper made banquet for his son, one is only forbidden on the same day and for that same person.

RASHI

FIRE- *That they burn in the corpse's presence all the implements he used during his lifetime, in the manner of a king (i.e. burning the king's items at his funeral.)*

Gemarah- (Skipping to relevant Gemarah, in the middle of a discussion about the teaching from the mishnah "all death that has at it a fire, there is idol worship" on 11a.)

- A. ...Everyone (i.e., both R. Meir and the Sages) says that burning is not a religious custom (of the idolaters) rather it is (showing the) importance (of the person who died). (I.e., a customary observance showing respect). But their dispute is on this point: R. Meir holds that there is no difference between a funeral that has at it burning or a funeral that doesn't have at it burning, (at both) there is idolatry. And the Rabbis hold that a funeral that has at it burning is (showing the) importance of him (who died) has idol worship there, but if it doesn't have burning it is not (showing the) importance there is no idol worship there. (Burning itself is not *avodah zarah*, but that practice does mark an "important" funeral - a "state" funeral- at which we can be sure there will be some idol worship taking place)
1. The thing itself (returning back to an earlier statement)- It is permitted to light funeral pyres for kings. Burnings for the sake of kings and there is nothing in it of the ways of the Amorites (I.e. this custom is not idolatrous.) As it is said, "But you shall die in peace and with the burnings of your fathers, the former kings which were before you, so shall they make a burning you..." (Jer. 34:5).
(Stam backs the above statements of the Rabbis and R. Meir that burning is not an idolatrous practice, with a proof-text about the death of King Tzidkiyahu, king of Judah.)
 2. And just as we burn for the sake of kings, so too do we burn for the sake of princes (or patriarchs). And what do they burn for the sake of kings? Their beds and the vessels they used. And the case of the death of R. Gamliel the Elder, Onkelos the convert burnt for him 70 Tyrian maneh.

- a. But you said that what they burned for their sake was their beds and vessels they used! Why at a cost of Tyrian maneh?
- b. And do they destroy nothing else but the “vessels”? Yet it is taught (*baraita*), “They mutilated for the sake of kings and there is nothing in it of the ways of the Amorites”. (Stam brings *terutz* with a *baraita* that shows that other “vessels” may be destroyed used at a funeral to show honor to the dead.)

RASHI

MUTILATE- *An animal; the sinews on the hooves alone are torn and cut.*

- 1) R. Papa said a horse that he rode upon.
(R. Papa clarifies which animal was mutilated, the one which the deceased used during his life.)

RASHI

A HORSE THAT HE RODE UPON- *For behold this is a vessel he used. (I.e. it fits under the category of things permitted to burn at a funeral, as mentioned above.)*

Translation Section 2: Halachic Literature

Sefer Hachinuch 451

(In the middle of the discussion on the *mitzvah* of *shechitah*)-

And furthermore, we say about the reason for the *shechitah* from the throat and with an examined knife, in order that we don't cause too much suffering to the animals, since the Torah permits them to man on account of his superiority to eat from them and for all his needs. But not to cause them senseless pain (i.e. pain for no good reason). And the Sages already spoke a lot about the prohibition against *tsaar baalei chayim* in Bava Metzia and in Shabbat, about if it is a toraitic prohibition. And they concluded it seems that it is a toraitic prohibition.

Sefer Hachinuch 550

That one does not plow with an ox and an ass together. And this is the law for everything of two types of animals when one is pure and one is impure. And not specifically plowing alone is it forbidden rather this is the law for all the types of work. For example, threshing or pulling the wagon and all other work: cite the verse: one does not plow with an ox and an ass together. As to the root of this *mitzvah*, our teacher Moshe b. Maimon, may his memory be for a blessing, wrote (in Moreh Nevuchim 3, ch. 49) that it is rooted in the prohibition against copulation of mixed animals, because it is the way of the workers of the land to bring the pair of working animals to a barn and lest he mates them. And the root of the prohibition against copulation, I wrote in the parshah "Kedoshim tiyu" (Lev. 19:1ff, *mitzvah* no. 244). And after permission of the remembered teacher, and acknowledging that his words are good (i.e., with all humility, I think I have something to add to his words), and I will say that the reason for this *mitzvah*, is the issue of *tsaar baalei chayim*, that is a prohibition from the Torah. And it is known that species of animals and birds have a great fear when they dwell with one not of their type, and all the more so to do work with them. Just as we see with our eyes them that are in our hands (our care), that every bird with its own species will it dwell and every animal and all the rest of the types also always stick to their own type.

Mishnah Torah Rotzeach Veshmirat Nefesh 13

1. One who meets his fellow on the way and his ass has fallen under its pack- whether it has upon it a pack fitting to it or a pack more than its pack (i.e. too heavy for him)- behold it is a *mitzvah* to unload from it. And this is a positive *mitzvah*, as it says, “You shall surely help with him,” (Ex 23:5).
2. And one may not unload and leave him in an agitated state and go. (I.e. after one has helped unload, he may not leave the owner alone and anxious about his belongings.) Rather (one must) lift with him and return his pack upon it, as it says, “You shall surely raise up with him,” (Dt 22:4). This is another positive *mitzvah*. And if he leaves him in an agitated state and does not unload or does not load, he has failed to perform the positive *mitzvah* and he has violated a negative *mitzvah*, as it says, “You shall not see your brother’s ass...” (ibid.).
3. If one is a priest and an animal falls in a cemetery, he doesn’t impurify himself, just as he doesn’t impurify himself to return lost property. And so if he is old and has no way to load and unload, since it isn’t according to his honor, he is exempt. (Here we have exemptions to this *mitzvah*.)
4. This is a general rule: Everything, that if it were his (animal) he would load or unload, behold this is an obligation to load and unload that of his fellow. And if he is a chasid (one who adheres to a higher standard of behavior than that which is legally required) and goes beyond the strict legal requirement, (according to which he is exempt from helping the owner), even the Great Prince (of the Sanhedrin), and if he sees an animal lying under its pack of straw or branches and (materials) in a similar class, he must unload or load with him.
5. If he unloads and loads and it falls again, he is obligated to load and unload another time, even 100 times, as it says, “ You shall surely help, “ “You shall surely raise up with him, “. (Rambam follows the mishnaic interpretation that the double use of the verb in each of these verses means an obligation to repeat the action as many times as needed.)
Therefore, he must accompany him for a Persian mile or if the owner of the pack say to him, you don’t need to.
(One is obligated to stay with the owner for awhile to ensure that the pack is securely on the animal.)
6. From when is one obligated to unload or to load with him? From when he sees him, that is meeting, for behold it says, “When you see” and it says, “When you meet” (Ex 23:4-5). And how much is that? (What does this mean in practical terms?) The Sages calculated he who has between them 266 2/3 cubits that is one-seventh and one half of a seventh (i.e., 3/14) of a mil. If he is farther than this, he doesn’t need to.
7. It is a *mitzvah* from the Torah to unload with him for free. But to load upon him,

behold this is a *mitzvah* (for which he is entitled to) take his compensation. And so in the hour that he accompanies him for a Persian mile, he (is entitled to) a compensation (for the time that he may be losing from work).

8. If one finds the animal of one's fellow lying, even if its owner is not with him, it is a *mitzvah* to unload from him and to load upon him as it says, "You shall surely help..." "You shall surely raise"—*i.e.*, in any case. If so, why does it say "with him"? That if there is an owner of the animal is there, and he (the owner) goes and sits and says to this that met him, "Since the *mitzvah* is upon you, if you want to unload alone, unload," behold he (the passerby) is exempt as it says, "with him". And if the owner of the animal is old or sick, he is obligated to load or unload alone.
(Basically the Rambam says that if you find the animal alone, you are obligated to it. However, if the owner is there and is able but is not willing to work with you, you are no longer obligated.)
9. (What are the obligations in the situation of) the animal of a Gentile and a pack of a Jew? If the Gentile was driving his ass, he (the passerby) is not obligated to him. And if not, he is obligated to unload and to load because of the pain to the Jew. And so if there was an animal of a Jew and the pack of a Gentile, he is obligated to unload and to load because of the pain to the Jew. But if the animal is of a Gentile and its pack (is also of a Gentile) he is only obligated to take care of it because of enmity.

(Skipping to next relevant *halachah*)

13. One meets two (animals)- one is lying under its pack and one that is unloaded and there is no one there to help him. It is a *mitzvah* to unload first because *tsaar baalei chayim* and afterwards to load. About what do these words speak? Where there are two of your enemies or two of your friends. But if there is one enemy and one friend, it is a *mitzvah* to load with you enemy first in order to bend your will.
(Bending your will- learning moral discipline -supercedes *tsaar baalei chayim*.)
14. The enemy, to which the Torah refers, not from one of the nations of the world, rather, a Jew. And how would there be to a Jew a Jewish enemy when it is written, "Do not hate you brother in you heart" (Lev. 19:7)? The Sages said- For example when one saw him alone doing a sin and he warns him and he doesn't repent, behold it is a *mitzvah* to hate him until he makes repentance and returns from his evil ways. And even if he still hadn't done *tshuvah*, if one found him frightened with his pack, it is a *mitzvah* to load and to unload with him and not to leave him to die. Lest he tarry for his property and danger comes upon him, and the Torah cares for the souls of Israel, whether they are evil or righteous, since they cling to Gd and believe in the essence of the religion as it says, "Say to them, As I live, says Adonai Elohim, I do not take pleasure in the death of the wicked, rather that he turn from his ways and live, "(Ezek.33:11).

Mishnah Torah Shabbat 21

9. One should not ride on the back of an animal on Shabbat. It is a *gezerah*, lest he cuts (cut) a vine to guide it (the animal). And one should not hang on an animal nor climb on it while it is yet day (in order) to sit on it during Shabbat. And one should not lean on the side of an animal. Indirect use of the sides, is permitted. If one goes up a tree on Shabbat by mistake, it is permitted to descend. On purpose, it is prohibited to descend. And (if one goes up) on an animal, even with awareness, he descends, because of *tsaar baalei chayim*. And so he unloads the burden from the animals on Shabbat because of *tsaar baalei chayim*.

10. How (to unload an animal on Shabbat, without violating any restrictions)? If one's animal is loaded with a pouch of untithed grain, he places his head under it and raises it to the other side and it falls from it (the animal). If he comes from the way (a journey) on leil Shabbat and his animal is loaded, when he arrives to the outside courtyard he takes his vessels that can be handled on Shabbat. And those that can't be handled, he loosens the ropes and the sacks fall. If there were in the sacks breakables, if the sacks were small, he brings pillows and cushions and lays them under them and the sacks fall on the pillows. Behold, if one wants to pull out the pillow, he pulls it out, because the sacks are small and light and thus the vessels are not canceled from their preparedness. If there was (one) packed with glass vessels, he loosens the sacks and they fall; that even though they may break this is not a big loss, that behold everything is to be smelted and the loss is little, they did not suffer. If the sacks were big and full of glass vessels and similar things, he unloads gently. And in all cases he doesn't leave it alone on the animal because of *tsaar baalei chayim*.

Mishnah Torah Shabbat 25:26

An animal that fell in a well or a stream of water- if one is able to give it sustenance in its place, it gives it sustenance until Motzei Shabbat. And if not, it brings it pillows and cushions and lays them under it. And if she climbs up, she climbs raises up. And even though the vessel (i.e. the pillows and cushions) is canceled from its preparedness- since behold he sends them to the well, into the water- because of *tsaar baalei chayim*, it is not decreed. (I.e. the rabbis did not apply their decree to cases of *tsaar baalei chayim*.) But it is forbidden to lift it with one's hand. And so we do not uproot a domestic animal or a wild animal or a bird in the courtyard, but we push it until it enters. And we shake calves and foals. And hen that has fled, we do not shake her, because she will slip away from the hand and her wings may be perforated, but we push her until she enters.

Mishnah Torah Yom Tov 2:4

A firstling animal that is born and it has a blemish on it, behold it is ready (for eating. We don't need to determine that the animal does not belong to a kohen; we eat it for Yom Tov, on the grounds that because it is blemished it legally belongs to us) But we don't examine it (for a blemish) on a Yom Tov. And if one breaks the law and looks for a blemish and examines it and they (the experts) permit him, behold he slaughters and eats.

A firstling that falls in a well, he brings for him sustenance in his place. For behold he is not able to raise him because it is not fit to slaughter on a Yom Tov. (An animal) and its offspring fell in a well, one lifts the first for the sake of slaughtering it and then he doesn't slaughter it. And then he subtly bends the law and raises the second for the sake of slaughtering it and he slaughters that which he wants. Because of *tsaar baalei chayim* they permitted him to bend the law (of Yom Tov) ...

Tosefot Bava Metzia 32

FROM THE WORDS OF BOTH OF THEM WE LEARN THAT *TSAAR BAALEI CHAYIM* IS TORAITIC- And if you should say (the Tosefot raises a difficulty, prior to resolving it)- If this is so, (i.e. if *tsaar baalei chayim* is toraitic) then why “they mutilate for the sake of kings and it is not because of the ways of the Amorites “(AZ 11). Then why is it permitted to mutilate the horses belonging to kings who have died and this latter custom is not prohibited on the grounds that it is imitative of Gentile practice? (This is a reference to AZ 11. In this *sugya*, the gemarah discusses whether or not it is permitted to cause pain to an animal in the funeral procession for a king. It is decided that for the sake of honoring the king this is permitted. I.e. even though *tsaar baalei chayim* is deemed toraitic, it is suspended in certain cases, for specific causes.)

One can respond- Because the honor of the king or chieftain takes precedence (over the prohibition of *tsaar baalei chayim*). In the same way, the prohibition of *bal tashchit* is also suspended in cases where (property destruction) is seen as an honor to them, as Onkelos (in AZ 11) burned 70 Tyrian manehs for the sake of R. Gamliel in the first chapter of AZ. And furthermore, since it's written “and their horses...” (Joshua 11:6), (we learn that) it is not a problem to suspend (*tsaar baalei chayim*) for the sake of kings.

The Rosh Bava Metzia 32 [3:28]

Gemarah-

IT IS A *MITZVAH* FROM THE TORAH TO UNLOAD ETC- It is expounded that it is a *mitzvah* from the Torah to unload for free but not to load for free. It is taught there (i.e., this is based upon) in a *baraita* that “one unloads for free and loads for compensation. R. Shimeon said that both are done for free.” And we hold as the Rabbis.
(This commentary continues on about compensation.)

RAVA SAID FROM THE WORDS OF BOTH OF THEM WE LEARN THAT *TSAAR BAALEI CHAYIM* IS TORAITIC ETC-

And although the gemarah raises difficulties against Rava's view we hold it to be *halachah*, and thus said R. Yehudah in the end (of chapter Mafnim Shabbat 128) that if an animal fell into an enclosure of water one may bring pillows and cushions and lay them under it on Shabbat because the nullifying of vessels is rabbinic and *tsaar baalei chayim* is toraitic and the toraitic comes and supercedes the rabbinic. And from here R. Meir, may his memory be for a blessing, says that when a cow is full of milk and it is in pain from it, it is permitted to say to a Gentile on the Shabbat to milk it and to take the milk himself (I.e. the Jew takes the milk himself). Since *tsaar baalei chayim* supercedes (the prohibition against) speaking to a Gentile.

If he (the owner) goes and he sits and he says, “Since this commandment is upon you, if it is your will to unload, unload” he (the passerby) is exempt from the perspective of unloading (i.e. under the strict understanding of the *mitzvah* of unloading) but he is obligated from the perspective of *tsaar baalei chayim*. And the difference between these two sources of obligation is that if he (the owner) gives him compensation, he is entitled to receive it (since one is doing this because of *tsaar baalei chayim* and not because of the *mitzvah* of *perikah* per se).

And an animal of an idolater he is obligated to load because of enmity. And (he is obligated) to unload even if the idolater is not with the animal because of *tsaar baalei chayim*.

And so one that lies habitually or is standing one is obligated (to unload because of *tsaar baalei chayim*) for compensation.

We learn that if there is a fellow that needs unlading and an enemy that need loading it is a *mitzvah* (to first load) with the enemy in order to bend one's will. If both of them are friends or both are enemies, it is a *mitzvah* to unload (first) because of *tsaar baalei chayim*.

The Rif on Bava Metzia 32 folio 17b with the Nimmukei Yosef

Gemarah-

The Rabbis taught- It is a *mitzvah* from the Torah to unload but not to load. We have interpreted that it is a *mitzvah* from the Torah to unload with him for free and not to load for free rather for compensation.

TO UNLOAD FOR FREE- (same as Beit Yosef) *There are some that say that this applies when he is not prevented from earning an income (while doing a mitzvah). But if he is prevented, he receives compensation at the rate of a day-laborer since his claim here is no stronger than it would be in the case of returning a lost object (where he also is compensated at this relatively low rate). And read here (we apply the verse) "But there shall be practically no poor among you..." (Dt 15:4) (which implies) that one's own (economic welfare) takes precedence (in matters of tzedakah.). But if he is otherwise unemployed, the rule is that he must unload for free. According to this reasoning, even an unemployed person can demand compensation for loading an animal.*

But this is not clear in the eyes of the Ranber (R. Nissim ben Reuven Gerondi, the Ran) (i.e., the Ran disagrees with the above) since there is in unloading tsaar baalei chayim (i.e., since tsaar baalei chayim applies in the case of perikah), even one who is prevented from earning an income is obligated to do it for free. But for loading, it would be comparable to returning a lost object he would be entitled to compensation if he were not otherwise unemployed. But if he were otherwise unemployed (and therefore loses nothing by doing the unloading), he must unload for free. And concerning this passage later on about unloading that when the master (of the animal) does not work beside him (he receives) a compensation—that is in the category of a fine levied against the master, that the worker should take compensation because he has not helped him in the unloading.

IN ORDER TO BEND HIS WILL- *The Ramban, may his memory be for a blessing, "That we are not speaking of the "enemy" as understood by the Torah, about whom we say in the chapter Arvei Psachim (113) For example he saw him do a terrible transgression, that it is a mitzvah to hate him. And why "bend one's will" to love such a person? Rather that here we deal with an ordinary enemy, who has done him an injury, something he finds hateful.*

We have learnt a *baraita* in the same sense as the mishnah- "one unloads for free, loads for compensation. R. Shimeon says both for free." And we hold as our Rabbis (i.e. only unloading is done for free.). That Rabbis taught (i.e., a *baraita*): "(If you come upon) a fellow (needing) unloading and an enemy (needing) loading, it is a *mitzvah* to load with the enemy in order to bend your will. And "an enemy" as they said, a Jewish enemy and not an enemy from the Gentiles. If both are friends or both are enemies it is a *mitzvah* to unload (first) because of *tsaar baalei chayim*...

BECAUSE TSAAR BAALEI CHAYIM- The Geonim, may their memory be for a blessing, and R. Alfasi, may his memory be for a blessing, ruled according to Rava who said that tsaar baalei chayim is toraitic and as it is stated in chapter Mafnim (Shabbat 128b) they permitted a vessel to be canceled from its preparedness which is rabbinic because tsaar baalei chayim is toraitic (i.e. the toraitic takes precedence over the rabbinic).

But that ruling applies only in a case of considerable pain. But in a case of a small (inconsequential) pain, the rule is different, as we learn in a mishnah in chapter Mashilin (Beitzah 37) about an animal and its offspring that fell in a pit that it was not permitted to raise them. Rather to give it sustenance in its place since it is not so much pain. And if you say because tsaar baalei chayim is toraitic, (but there is the situation of) an elder and his honor. Why does he not unload (i.e. if tsaar baalei chayim is toraitic)? And the Ramban, may his memory be for a blessing, solves it that the positive commandment of honor for the torah takes precedence (over tsaar baalei chayim).

But this is not clear in the eyes of the Ranber. (He reasons as follows)- The rule does not apply only to the elder, whose exclusive distinction is that he has acquired Torah. Rather, it applies to anyone who is "honored," whose dignity exempts him from servile work such as this. Thus we read (Bava Metzia 30b)- Whoever unloads and loads his own animal should do it for his fellow (I.e., if he doesn't do this sort of thing for himself, out of considerations of dignity, he's exempt from doing this for others). And the Rambam says this in Hil. Gezeilah Veaveidah, ch. 11. Rather, the reason here (is not because of the honor of the Torah but) because tsaar baalei chayim is waived in cases where the needs of human beings require this; all the more so that the honor of human beings should allow one to waive tsaar baalei chayim by doing nothing. As the saying goes, gadol kevod haberiyot.

The Rif Shabbat 128B folio 51a

Gemarah-

R. Yehudah said an animal that fell into an enclosure of water on Shabbat, one brings pillows and cushions and places it under it. And if it climbs up, it climbs up. (This is what one does) although one nullifies the vessel from its preparedness. What is the reason? (The *issur* of) nullifying from preparedness is rabbinic and (the *mitzvah* of) *tsaar baalei chayim* is toraitic, and the toraitic comes and supercedes the rabbinic. These words, (i.e., the above rule applies) when it is not possible to make it food (sustain the animal) there in its place, but when it is possible to make sustenance for it in its place (so this) is enough.

(I.e. if it is possible to save the animal by just bringing it food then one should not break the rabbinic decree about preparedness of vessels. This should only be broken if it is not possible to save it with food.)

Tur Choshen Hamishpat 272 with the Beit Yosef commentary

10. One who meets two (animals), one lying under its pack and one unloaded and needing loading, it is a *mitzvah* to unload first because *tsaar baalei chayim* and afterwards to load. What are they talking about (to what does the above rule apply)? (A case where) they are both friends or they are both enemies. But if one is an enemy and the other a friend, he helps the enemy first and even to load in order to bend his will (i.e., for the sake of moral discipline.)

One who meets two (animals), one lying under its pack and one unloaded and needing loading, it is a mitzvah to unload first because tsaar baalei chayim and afterwards to load. What are they talking about? They are both friends or they are both enemies. But if one is an enemy and the other a friend, he helps the enemy first and even to load in order to bend your will. (This is from a) gemarah and the baraita there (BM 32). (This is) according to the one (i.e., the point of view) who says that tsaar baalei chayim is toraitic. And so decided the Rif and the Rosh. And Rambam rules likewise in chapter 13 from the halachot on Rotzeach.

And concerning the passage in the gemarah that "it is a mitzvah from the Torah to unload with him for free and not to load with him for free rather for a compensation," Nimukei Yosef wrote- "(one is obligated) to unload for free." There are some that say that this applies when he is not prevented from earning an income (while doing a mitzvah). But if he is prevented, he receives compensation at the rate of a day-laborer since his claim here is no stronger than it would be in the case of returning a lost object (where he also is compensated at this relatively low rate). And read here (we apply the verse) "But there shall be practically no poor among you..." (Dt 15:4) (which implies) that one's own (economic welfare) takes precedence (in matters of tsedakah.) But if he is otherwise unemployed, the rule is that he must unload for free. According to this reasoning, even an unemployed person can demand compensation for loading an animal.

But this is not clear in the eyes of the Ranber (R. Nissim ben Reuven Gerondi, the Ran) (i.e., the Ran disagrees with the above) since there is in unloading tsaar baalei chayim (i.e., since tsaar baalei chayim applies in the case of perikah), even one who is prevented from earning an income is obligated for free. But for loading, it would be comparable to returning a lost object he would be entitled to compensation if he were not otherwise unemployed. But if he were otherwise unemployed (and therefore loses nothing by doing the unloading), he must unload for free. And it is further written (the Ran writes further) "in order to bend your will." The Ramban wrote that we are not speaking of the enemy as the one established in the chapter Arvei Psachim (113) (in which the enemy is established as Jew). For example he saw him do a terrible transgression, that it is a mitzvah to hate him. And why "bend one's will" to love such a person? Rather that here with an ordinary enemy, who has done him an injury, something he finds hateful.

11. We hold that *tsaar baalei chayim* is toraitic, therefore even in a place that he is not obligated to unload, for example an ass that regularly lays down or that is standing or that the owner left and sat by him saying to the bystander, "unload". That (in these cases usually) he is exempt from the requirement of *perikah*, but he is obligated to unload because of *tsaar baalei chayim*. And what comes out of it (the difference between doing this *mitzvah* because of *perikah* or because of *tsaar baalei chayim* is that if he (the owner) wants to give him a compensation he is entitled to receive it.

"We hold that tsaar baalei chayim is toraitic" - (This rule) was already explained in the adjacent passage. "Therefore, even in a case that one is not obligated etc, he is so obligated because tsaar baalei chayim." So wrote the Rosh. And I already wrote that this is what we glean (as well) from the words of Rambam, may his memory be for a blessing. And as for what (the Tur) wrote "That the practical halachah is that if he gives him a compensation he is entitled to receive it," so too wrote the Rosh, may his memory be for a blessing. The Mordechai wrote in the end of chapter two of (Bava) Metziah that "Concerning the statement that tsaar baalei chayim is toraitic and concerning what Rava said, that all who wouldn't unload for themselves, are (not obligated) to unload for others." (I.e., one is no obliged to unload an animal in a case where, if it were his own animal, he would not feel the need to unload it.) It appears to the Ram that this is what it means- "One who wouldn't unload for himself" (I.e., that he can hire workers to do it for him so that he doesn't have to do it himself.) He need not unload his fellow's animal either, so long as he can find workers to hire for that purpose. But when he can't find workers, and when he would be required to unload his animal himself under the toraitic obligation of tsaar baalei chayim, in such a case he is obligated as well to unload his fellow's animal.

12. One is only obligated to load for a Jew, but not for a Gentile. Rather, as the Sages said, for a Gentile animal, if the Gentile is there, one needs to load with him because of enmity.
13. Therefore, if the Gentile comes to load forbidden wine, one doesn't need to help him, since there is not enmity.
14. And in unloading, one is obligated even if the Gentile is not there, because of *tsaar baalei chayim*.

"One is only obligated to load for a Jew, but not for a Gentile. Rather, as the Sages said, for a Gentile animal, if the Gentile is there, one needs to load with him because of enmity. Therefore, if the Gentile comes to load forbidden wine, one doesn't need to help him, since there is not enmity. And in unloading, one is obligated even if the Gentile is not there, because of tsaar baalei chayim." This is from the end of chapter Eilu Metzios on the statement of Rava that tsaar baalei chayim is toraitic. Let us say that the following supports his (Rava)- When

finding an animal of a Gentile one must care for it as an animal of a Jew. It is all right if you say that tsaar baalei chayim is toraitic, because of this one cares for it like an animal of Jew. But if you say that tsaar baalei chayim is not toraitic, why does one care for it as an animal of a Jew? There (in that case) because of enmity. The practical halachah is, as was taught, if there was forbidden wine to be loaded one is not obligated. It is all right if you say that (tsaar baalei chayim) is not toraitic, because here one is not obligated. But if you say that it is toraitic, why is one not obligated? Here, as it says about loading forbidden wine, one is not obligated. (I.e. there is no issue of tsaar baalei chayim as it is about loading, not unloading).

And (here are) the comments of Rashi (on this piece of gemarah) "And so it says for loading" and (tsaar baalei chayim) is after all toraitic. At the beginning he taught that one cares for it both in loading and unloading. Unloading because of tsaar baalei chayim and loading because of enmity. And to load forbidden wine, since there is no pain (to the animal) and no enmity, since he can say this is a forbidden thing for us, he is not obligated to it.

Shulchan Aruch Choshen Mishpat 272 with Rema- unless otherwise noted

1. One who meets his fellow on the way and his ass has fallen under its pack- whether it has upon it a pack fitting to it or a pack more than its pack (i.e. too heavy for him), behold it is a *mitzvah* to unload from it. And this is a positive *mitzvah*, as it says, "You shall surely help with him," (Ex 23:5).

If it is the way of the animal to always lay down under its pack or if it is standing under its pack, one is not obligated.

And one may not unload and leave him in an agitated state and go. (I.e. after one has helped unload, he may not leave the owner alone and anxious about his belongings.) Rather (one must) lift with him and return his pack upon it, as it says, "You shall surely raise up with him," (Dt 22:4). And if he leaves him in an agitated state and does not unload or does not load, he has failed to perform the positive *mitzvah* and he has violated a negative *mitzvah*, as it says, "You shall not see your brother's ass..." (ibid.).

6. It is a *mitzvah* from the Torah to unload with him for free.

Like a lost object. See above in chapter 265.

But to load upon him, behold this is a *mitzvah* (for which he is entitled to) take his compensation. And so in the hour that he accompanies him for a Persian mile, he (is entitled to) a compensation (for the time that he may be losing from work).

7. If one finds the animal of one's fellow lying, even if its owner is not with him, it is a *mitzvah* to unload from it and to load upon it as it says, "You shall surely help..." "You shall surely raise," (i.e.), in any case. If so, why does it say "with him"? That if an owner of the animal is there, and he (the owner) goes and sits and says to he that met him, "Since the *mitzvah* is upon you, if you want to unload alone, unload," behold he (the passerby) is exempt as it says, "with him". And if the owner of the animal is old or sick, he is obligated to load or unload alone.
8. What are the obligations in the situation of the animal of a Gentile and a pack of a Jew? If the Gentile was driving his ass, he (the passerby) is not obligated to him. And if not, he is obligated to unload and to load because of the pain to the Jew.
9. And so if there was an animal of a Jew and the pack of a Gentile, he is obligated to unload and to load because of the pain to the Jew. But if the animal is of a Gentile and its pack (is also of a Gentile) he is only obligated to take care of it because of enmity.

Behold to unload one is obligated if the idolater is not there because of tsaar baalei chayim which is toraitic. And so in any case where he may be exempt from unloading, because of tsaar baalei chayim, be it as it may, but he is obligated.

And the halachic difference (between obliging him on the basis of perikah or tsaar baalei chayim) is that he is entitled to receive compensation.

10. One meets two (animals)- one is lying under its pack and one that is unloaded and there is no one there to help him. It is a *mitzvah* to unload first because *tsaar baalei chayim* and afterwards to load. About what do these words speak? Where there are two of your enemies or two of your friends. But if there is one enemy and one friend, it is a *mitzvah* to load with you enemy first in order to bend your will.
(I.e. bending your will, that is learning moral discipline, supercedes *tsaar baalei chayim*.)

And specifically an enemy that is a transgressor. But if he is an idol worshipper and one hates him because he does a transgression, one does not need to load with him in order to bend his will since "it is pleasing one who hates him" (Nimmukei Yosef chapter Eilu Metziut).

11. The enemy, to which the Torah refers, not from one of the nations of the world, rather, a Jew. And how would there be to a Jew a Jewish enemy when it is written, "Do not hate you brother in you heart" (Lev 19:7)? The Sages said- For example when one saw him alone doing a sin and he warns him and he doesn't repent, behold it is a *mitzvah* to hate him until he makes repentance and returns from his evil ways. And even if he still hadn't done tshuvah, if one found him frightened with his pack, it is a *mitzvah* to load and to unload with him and not to leave him to die. Lest he tarry for his property and danger comes upon him, and the Torah cares for the souls of Israel, whether they are evil or righteous, since they cling to Gd and believe in the essence of the religion as it says, "Say to them, as I live, says Adonai Elohim, I do not take pleasure in the death of the wicked, rather that he turn from his ways and live, "(Ezek.33:11).

Shulchan Aruch Orach Chayim 167:6 with the Rema and Mishnah Brurah

One eats immediately and does not converse between the *berachah* and eating. But if he does converse, he needs to bless again, unless the conversation was about matters concerning that over which the *berachah* was said. For example if he has blessed over a piece of bread and before he eats he says, "Pass the salt or the relish", "Give so and so (bread) to eat" "Give the animal food" and about similar matters he does not need to bless again.

In any case the recommended course of action is that one does not interrupt the blessing at all. But concerning the rule that if he does converse about vanities (i.e. not the above listed matters or similar such topics) he needs to bless again: That is specifically that the one who broke the bread was the one who conversed, but afterwards (if those who heard the berachah were the ones who spoke) this not a conversation that is interrupting, even if other guests have not eaten yet.

Mishnah Brurah-

42. THE ONE WHO CONVERSED- This means (so it should read)- the one who broke the bread talked before he ate.
43. BUT AFTERWARDS- Even if those who heard it converse after it and they were intending to be *yotsei* from his *beracha* before they tasted it, here, too, we don't object after the fact, since the reciter's blessing has already taken force. (I.e., he said the *berachah* and ate; if anyone else talks, this doesn't negate that fact.) However, in the preferred course of action certainly it is forbidden to everyone who hears (the *beracha*) to interrupt (by talking) before they taste (the bread).

And behold this is only the opinion of the Rema, but almost all the *Achronim* dispute it. And it is their opinion that the listener is not preferable (i.e., is in no stronger halachic position than) to the one who does the blessing himself, who if he converses before tasting must bless again. (And they say) so also the listener, if they interrupt before they taste, must bless again. Know further that if the one who blesses converses before tasting, even if the listeners did not at all converse, it is learned from the poskim, apparently that also they are not *yotsei* from the *beracha*, as I wrote in *Biur Halachah* but this conclusion requires further consideration before it can be applied as practical *halachah*.

Shulchan Aruch Orach Chayim 305 with Rema and Mishnah Brurah

18. One should not ride on the back of an animal (on Shabbat) and one should not hang on it, even upon its sides. It is forbidden to use it. But indirect use of the sides, for example if something was placed upon its side, and one uses it, it is permitted. And if one goes up on it, even with awareness, he descends because of *tsaar baalei chayim*. And for this reasoning we unload the pack upon it. How (does one do this on Shabbat, considering Shabbat laws)? He places his head under it and raises it to the other side and it falls from it (the animal).

And it is forbidden to sit on the wagon that a Gentile is driving on Shabbat because he uses the animal. Also so one does not cut a vine (to guide the animal). (Tosefot and the Rosh at the beginning of the chapter Mi Shehotzihu and Mordechai chapter 141 d'Shabbat Vhagahot Eruvin and the Beit Yosef in the name of the Sefer Mitzvot Gadol 43).

Mishnah Brurah-

64. EVEN WITH AWARENESS- And this differs from the subject of the tree that if one goes up it with awareness (i.e., that one knows it's Shabbat, or that it's forbidden to climb a tree, but climbs it anyway) we hold below in chapter 336 paragraph 1 (where it is ruled) that one should not descend until motzei Shabbat as a punishment (for breaking Shabbat). Here one does descend because of *tsaar baalei chayim*.
(The prohibition concerning animals is similar to that concerning the climbing of a tree, yet we do not apply the same penalty because of *tsaar baalei chayim*.)
65. AND FOR THIS REASONING- That is, even if the pack is *muktseh*. And in any case they did not want to be lenient because of the reason of *tsaar baalei chayim* (to allow one) to shift it with hands since it is possible to shift it without hands. (I.e. even though one is allowed to unload *muktseh* to prevent pain to the animal, there is a special that it is done in order to break the law in the least way possible.)
19. An animal that fell in a stream of water, if the water is deep, and due to this one is not able to bring it sustenance in its place (i.e. one can not save it via this means), he brings it pillows and cushions and lays them under it because of *tsaar baalei chayim*; even though the vessel (i.e. the pillows and cushions) is canceled from its preparedness.

It is law that one may curry (i.e. comb) an animal on Shabbat like a Yom Tov (Mordechai 2 in Beitzah).

Mishnah Brurah-

68. IF THE WATER IS DEEP- Since if the water is not deep and one is able to (bring it) sustenance in its place so that it will not die, one is not permitted to lay under it pillows and cushions and cancel vessels from their preparedness.
(I.e. one can't break the rabbinic rule if there is another way to prevent pain/death to the animal).
69. HE BRINGS IT PILLOWS AND CUSHIONS- It is the same ruling that he is able to lay other types of vessels under it in order that it is able to climb out. He (the Shulchan Aruch) uses the expression "pillows and cushions" to establish a more far-reaching conclusion, that even if they (the pillows and cushions) will not be used afterwards since they are wet after the animal has climbed upon it. Nevertheless, it is permitted because *tsaar baalei chayim* comes (and supercedes) since it is toraitic (from what the torah warns us about the *mitzvah* of unloading the pack from the animal) certainly the prohibition against canceling a vessel from its preparedness since it is only a rabbinic decree that one does not cancel on Shabbat from its preparedness.
70. AND LAYS THEM UNDER IT- But it is forbidden to raise it up with (one's) hands since all animals are *muktseh*. And although there is the issue of *tsaar baalei chayim* it is forbidden to us to draw analogies between the decrees of the Sages one to another.
(I.e. that just because *tsaar baalei chayim* supercedes one rabbinic rule does not mean that we can conclude that it supercedes all.)
Magen Avraham and Tosefet Shabbat (an 18th cent. halachic work), prove this from the Rambam. See in Eliyahu Rabah (another 18th C. work), who raises the point that there are *poskim* that are lenient, saying that one can even raise it out with hands if it is not possible by means of pillows and cushions. And a Gentile according to everyone is permitted to raise it out and this is preferable to laying pillows and cushions and other vessels under it.
20. It is permitted to say to a Gentile to milk one's cow on Shabbat because of *tsaar baalei chayim*, since the (excess) milk causes it pain and milking is forbidden (to a Jew) on that day. And there are those who say that one needs to buy it (the milk) cheaply from the Gentile lest it appears that the milking was for the need of the Jew (and not to relieve the pain of the animal.)

Mishnah Brurah-

71. IT IS PERMITTED TO SAY- And it is also permitted because of *tsaar baalei chayim* to say to a Gentile to release the geese that are already used to being released and they are not able to return to eating by themselves. But it is only permitted one time in a day since there is no issue of *tsaar baalei chayim* (after they have been fed once) (Tshuvat Rema). And that responsum implies that if

there is not a Gentile available it is permitted to be released by the hands of a Jew. And even though it is forbidden below in *halachot* 324 paragraph 9 to release the geese on Shabbat behold since they are not able to eat by themselves it is permitted because of *tsaar baalei chayim*. But it is good to be done by a child (I.e. it's better that a child do this, since he's not *chayav bamitzvot*)

Shulchan Aruch Even Haezer 5:14 with Rema

It is forbidden to say to a Gentile to castrate our animal but if he (the Gentile) takes it by himself and castrates it, it is permitted. And if a Jew evades the law through a legal device, they fine him and they sell it (the animal) to a Jew. And even to his oldest son (that is the oldest son of the man who broke the law) it is permitted to sell it. But to his youngest son one does not sell it nor give it to him.

But it is permitted to give the animal to a Gentile for half the compensation even though the Gentile will certainly castrate it, since the Gentile does this of his own accord (Beit Yosef). And it is permitted to sell to Gentiles animals and hens although that certainly the Gentile buys them to castrate them (presumably in idol worship.) and there the prohibitions are expounded in Terumat Hadeshen 254 (a work by R. Yisrael Isserlein, Germany, 15th cent.). But if the Gentile who buys it doesn't castrate it himself, rather he gives it to the another Gentile to castrate, according to everyone it is permitted (ibid.) Anything that is needed for healing or for similar things that do not (violate) the prohibition of tsaar baalei chayim (Issur V'heter 59). And so it is permitted to pluck feathers from live geese and one doesn't take into consideration tsaar baalei chayim (i.e., there's no concern that this violates the prohibition) (R. Yisrael Isserlein 160) . And in any case we refrain from this because of cruelty.

Aruch Hashulchan 272

1. It is written, “When you see the ass of your enemy lying under its pack, and you would refrain from helping it, you shall surely help it with him, “ (Ex 23:5). This is the *mitzvah* to unload. That it is a *mitzvah* from the Torah to help one’s fellow to unload from an animal when it is lying under a pack.

And in Tetzeh it is written, “You shall not see an ass of your fellow or its ox fallen in the way and ignore it. You shall surely raise it up with him, “(Dt 22:4). And this is the *mitzvah* of loading. That it is a *mitzvah* from the Torah to load the pack that fell from the animal that fell in the road. It implies that also the pack fell in the road and the Torah commands you to raise the pack onto the animal.

And unloading itself includes the *mitzvah* of loading, when one unloads all the pack from the ass if it is not possible in another way. For example if the pack falls out of its place, it is obvious that afterwards one needs to carry out the *mitzvah* of loading. And so it is learned from the Rambam Chapter 13 Rotzeach, see there.

2. Therefore, one who meets his fellow in the road and his animal is lying under its pack, whether its pack was fitting or too heavy for it, this is a positive *mitzvah* to unload from it. And we do not say that because one lays upon too heavy a pack, behold that he is obligated himself (it’s his fault) this might be true. In any case the Torah obligates him. Since perhaps unintentionally he did so. (I.e. he—the traveler—is obligated whether he—the animal’s owner—intentionally overloaded it.) And furthermore, there is the pain of the animal. And *tsaar baalei chayim*, the majority of *poskim* agree, is a *mitzvah* from the Torah (as opposed to a rabbinic *mitzvah*) to save them from their pain. And if it was the habit of the animal to lay down or to stand under its pack, one is not obligated under the *mitzvah* of unloading. As it says, “*rovetz*” meaning that in the instance and not that it habitually lays down, and owners intentionally drive animals in this manner. On the subject even though from the perspective of the *mitzvah* of unloading he is exempt, in any case he is obligated by *tsaar baalei chayim* (HaGra).
3. When one helps him to unload the pack, he shall not leave him (the owner) dazed and confused on the road. Rather raise it with him (the owner) and return his pack on it, as it says, “You shall surely raise it with him, “ (Dt 22:4). And if there was an excess amount on its pack, he (the traveler) leaves off at the point where the animal is carrying its proper load. As for the rest, let the owner secure another animal. Likewise, one who meets his fellow on the way and his pack has fallen from his animal onto the ground, he needs to help him to load the pack on the animal. And if he lays it down and doesn’t load, he has violated a negative *mitzvah* and failed to perform a positive *mitzvah*. And if the *mitzvah* of unloading comes to one’s hands (i.e. one has the opportunity to perform this *mitzvah*) and one doesn’t unload and doesn’t load, he has violated two positive *mitzvah* because (of the verses), “You shall surely help” and (You shall surely raise up). And he

- has failed to perform a negative commandment, “You shall not see”. And when the Rambam and the Shulchan Aruch write that “he has negated a positive *mitzvah*,” we have to say that they mean *two* positive *mitzvot*. Failure to perform a positive *mitzvah* it should say. Since they intended two positive commandments. And in Sefer Hamitzvot it is written about unloading that it is a negative *mitzvah* because in the majority of cases of unloading there is the necessity of loading.
4. Our Sages said (BM 32) that it is a *mitzvah* from the Torah to unload with him for free like with lost objects. But to load on it, this is a *mitzvah* but one is entitled to take compensation at the rate of a day laborer. Since, if the Torah intended that one also load for free, why would it write that it is a *mitzvah* to unload. Behold, we would have known this from *kal vachomer* from loading since *tsaar baalei chayim* is not associated with it (loading) and one is obligated (to load, all the more so unloading since *tsaar baalei chayim* is associated with it). Rather it is certain that there is no payment (i.e. this is why the Torah also commanded to unload.) That unloading is for free and loading is for compensation. However, also in unloading (there is compensation) if he has injured himself in it (by unloading) the owner pays him like in lost object in chapter 265.
 5. If one unloads and loads and again (the pack) falls, one is obligated to unload and load another time. Even 100 times as it says, “*azov taazov*” “*hakim takim*”. And “*azov*” and “*hakim*” are the *makor* form of the verb and not the regular form of the verb, which implies one time only. When one unloads and loads, he needs to go with the owner of the animal and accompany support him for a *parsah* and there are those who say a *mil*. And why does one need to accompany him? Lest it (i.e. the pack and it falls again) is damaged. Unless the owner of the pack says I don’t need you. And for accompanying he needs to pay him. And he is not obligated to do this for free.
 6. When is one obligated to unload and to load with him? From a distance that is close enough to be considered “meeting”. Since behold it says, “When you see” and it says, “When you meet”. And how much (distance) did our Sages quantify? That there would be between them $266 \frac{2}{3}$ cubit that is one half of a seventh (i.e., $\frac{3}{14}$) of a *mil*. And if one is further than this, he is not obligated (to load/unload). However, in reference to unloading, it appears from the words of our teacher HaRema in paragraph 9 that he is obligated because of *tsaar baalei chayim*. (I.e. even though he is further than the prescribed distance, he is still obligated to unload.) And the practical *halachah* (I.e., the practical difference between the two categories) is that he can receive compensation for it (if it’s on account of *tsaar baalei chayim*.)

Translation Section 3: Responsa

Shevut Yaakov III no. 71

Sheulah-

From the Sage R. Menachem Unna, may his memory be for righteousness and blessing, from Worms: Behold it was asked to me from an expert in medicine the R. David Vizel, may the Merciful One guard him and bless him, if one is permitted to administer a drug that may kill an unkosher animal, for example a dog or cat, for the sake of possibly saving a (human) life, since we have not yet checked or tried it. So, can we test it by feeding it to a cat or dog to see if they die?

So, I said- Let me learn from the words of our Rabbis, z"l, in Chullin 85B, "That it befell to R. Chayai that there were worms in his flax. He came to Rebi who said to him, "Get a bird and slaughter it on tub of water so that it will smell the blood and go (from the flax)." But the difficulty is raised by the Stam, how is this done? For it is taught that one slaughters and needs the blood, he is (still) obligated to cover (the blood and not use it for his use.) So, how does he do (the above procedure as Rebi instructed)? Either he stabs it or mutilates (i.e. but does not slaughter it.) And so the gemarah solves by saying that one either stabs or mutilates it, as it says.

(We are permitted to destroy an animal by means other than kosher slaughter when this is for our benefit)

Also one can bring proof from stabbing of goats as in Turei Zahav 117, since there is to him financial benefit it is not considered wanton destruction.

(I.e., the prohibition against wanton destruction does not apply when there is some benefit to be gained from the act)

And thus we learn in Chullin in the *maaseh* about R. Pinchas b. Yair. That Rebi said to him "I will kill them." (The white mules in front of his home, which were the reason why R. Pinchas would not come for dinner.) But R. Pinchas responded to him, that there is the issue of *bal tashchit*. From this we infer that Rebi also fully knew that there was the issue of wanton destruction but that he held that for the sake of benefit, it is permitted. But R. Pinchas responded that this was not an incident of benefit, rather it was merely for the sake of honor.

(This third proof basically says that *bal tashchit* can be set aside if there is sufficient benefit reaped from the action.).

But the more proof one adds, the worse his situation is, since we have not addressed the issue of *tsaar baalei chayim*. As they said there (i.e. in the *maaseh* of Rebi and R. Pinchas) that death is not considered *tsaar baalei chayim*, only *bal tashchit*. It is okay there to kill them if there is *bal tashchit* and not as it says, because of *tsaar baalei chayim*. Until I found a little Tosefot in BM 32B on "From the words of both of them we learn that *tsaar baalei chayim* is toraitic".

(This is the end of the *sheulah*. R. Menachem wants to know if he needs to take into consideration the aspect of *tsaar baalei chayim*.)

Teshuvah-

The law has been essentially stated in Teshuvat Mashat Binyamin and in Turei Zahav Yorei Deah 118 on the subject of stabbing goats. Also in Teshuvat Avodat Gershoni 13 and Beit Yaakov 42. They rule that in practice all that involves need, whether for medical purposes or for the sake of financial benefit, that there is no fear of the prohibition of *bal tashchit* or *tsaar baalei chayim* (i.e., the prohibitions do not apply in those cases). And even those who observe *mishnat chasidim*, who seek to observe the law beyond its minimal requirements, do not do so in this area, as it is written in Sefer Chassidim itself in chapter 667.

And so does the Rema in Shulchan Aruch Even Haezer 5:14, may his memory be for a blessing, "Anything that is needed for healing or for similar things does not (violate) the prohibition of *tsaar baalei chayim* (Issur V'heter 59). And so it is permitted to pluck feathers from live geese and one doesn't take into consideration *tsaar baalei chayim* (i.e., there's no concern that this violates the prohibition) (R. Yisrael Isserlein, 160). And in any case we refrain from this because of cruelty."

And the source of the rule is from what is taught in Tosefot AZ chapter 1 about mutilation (of animals) for the sake of kings; see there. True, one can apparently raise a difficulty against that proof, since "the honor of kings" is a different case. (I.e., what we're allowed to do for kings is not necessarily a model for what we're allowed to do in other situations.)

But it is also possible to bring another proof for this rule from Shabbat 77b- "Rav said that all the Holy One Blessed be He created in the world, not one was created in vain. He created the slug for sores, the fly for (the bite of a) hornet, the mosquito for (the bite of a) snake, etc. How does this work? One must bring one that is dark..." (Reisher brings this to show animals being used for medical need.)

And there, in Shabbat 109B there is one that a serpent bit, etc. (The *sugya* goes on to tell that to cure it you use the embryo of an ass). Behold it was permitted to kill an ass for the sake of healing and they were not concerned with wanton destruction or *tsaar baalei chayim*.

Just as for the sake of healing it is permitted, all that is for the need of man, *bal tashchit* in itself is suspended. Just as for the sake of saving a life, we desecrate the Shabbat, and so too with this (with other needs). And even greater than this we find in the first chapter of AZ 13B in the Mishnah it is forbidden to sell to them (idolaters) a white hen in the time that it is by itself. One should cut its wings, (to damage it and prevent it from being used for idol worship, as white animals commonly were.) Since behold it is permitted to cut an animal, which is a great pain, for the sake of profit. All that is in order to sell him a white hen, (for the sake of) a little enrichment. And so is it explained there in Avodah

Zarah 30B that it is permitted to give to his cat exposed drink (presumably because it is cheaper) even though it weakens it. And so wrote the Tosefot in BK 115, see there. Behold that all high priests are not concerned at all about the prohibition.

As for the Rema's conclusion in Even Haezer 5 that we nevertheless refrain from plucking feathers because of cruelty. There it is certainly (because) plucking feathers is a deed that is done with the hands and the bird feels a lot of pain at that time with each and every pluck. That is not (the same situation) here in the discussion or the question that is before us. (In the situation here) there is not pain at all in the time of eating or drinking this (i.e. the untested drug does not cause immediate pain). Only afterward does it cause sickness and pain. And since it is a medicine for man it appears clear to me that one need not be concerned with the prohibition (of *tsaar baalei chayim*). (It should not even be a concern) to those who go beyond the letter of the law. It thus appears to me.

Yaakov.

Iggeret Moshe, Even Haezer, part 4, no. 92.

On the subject of calves that are fattened in a manner that their meat receives a look of white:

And on the issue of the calves that, in a recent innovation has been introduced are fattened, each calf alone in its own very narrow place. There is no room for it even to walk some steps. And they don't feed any appropriate cow food to the calves, and they don't even taste the milk of their mothers. Rather they fatten them with a very fattening liquid that the cows do not get pleasure from. This is the opposite of what is written in Tractate Becharot 39, "loosened, certainly..."

(In this *sugya* the Rabbis discuss how to treat a cow. It is taught that it is preferable to treat it when it is not tied up, when it is with other animals. In other words, R. Feinstein brings this to show the contrast to this consideration and how the veal calves live- penned up and alone.)

Also, they become sick from this and need different types of medical care. And according to what expert *shochets* par excellence say (i.e. the well esteemed ones), only 15 out of 100 of these calves are (declared) kosher. And for the lenient *shochets*, it is about 44 or 45 out of these 100 calves that are (declared) kosher. And all agree that the majority is *treif*, the opposite of the presumption concerning cows that they are kosher. (I.e., we normally presume an animal to be healthy and not a *tereifah*, unless we discover otherwise or have reason to believe otherwise. These animals, it seems, must be presumed *tereifah* because of the way they are raised)

The above (that they are presumed *treif*) seems to refer only to *terifut* of the lung, which the *shochetim* see because they are required to inspect the lungs following slaughter. But it is possible that there are other causes of *tereifut* in the animal's digestive system, which is not normally inspected, so that it is obviously necessary to examine them and to pay very close attention to them.

It is proper to forbid this practice, and those who are careful about their observance should not eat the meat of these animals, even if their digestive tracts were inspected. The checking of the intestines is not of perforation and splits...rather of the different appearances of the intestine and splits done by their weakness and without checking the intestines they are not kosher.

And behold to those who do this (those who do this violate the prohibition) there is certainly the prohibition of *tsaar baalei chayim*. Even though the *issur* is lifted according to the needs of man in cases of human need, this applies only when there *is* a "need". And thus, (we are permitted to) slaughter them for food and work them for plowing and pack them and the like.

(I.e. these are the activities that fall under the rubric of needs of man for which *tsaar baalei chayim* gets set aside.)

But (this permit does *not* allow us) merely to make them suffer since this is forbidden, even if one makes a profit from it. For example, if a non-Jew wants to kill or mutilate some animal (this seems to refer to an animal that belongs to a Jew) that angered him, it is certainly forbidden (for a Jew to allow him to do this). Even if he pays him compensation in order to do this evil deed. This is for profit, which is permitted, since it ends up being food for others, even of a Gentile. But to kill or to mutilate because of the will of some evil one, it is forbidden even though it is for his own profit because the Gentile will pay him for the *achzari'ut*, cruelty, that he intends to do. Merely because some person happens to profit from the killing or mutilation of an animal (is not enough). It is forbidden, even though it is a source of profit (which is) “a human need.” (This consideration) applies only to actions that people normally undertake.

For this very reason, it is forbidden to one who is very saddened about the death of his father to hit his animal. He is forbidden by *tsaar baalei chayim* and even not to burn or to destroy for the honor of his father anything. Even if he honors his father very much and his sadness is great and he mutilates his animal and destroys and burns his vessels and he appeases his anger and his pain from this. (I.e., even if by this destructive and cruel behavior he achieves some sort of psychological benefit). As we find in Rashi Shabbat 105B when he expounds about tearing- in his anger, that it was thought it would be remedied by satisfying his anger.

(This is in the middle of a *sugya* discussing whether one may tear on Shabbat in the case of mourning. Rashi is commenting on the statement of R. Abin who says that tearing is actually considered creating since one is acting in a productive manner to ease his own pain.).

In any case it is forbidden, as it says there, because this is not a case of “human need” that is sufficient to override *tsaar baalei chayim*, even if one does not actually damage or kill the animal in so doing. And so this isn't of the needs of man to do to appease his *yetzer* and his anger with burning or destroying his objects or vessels. And it was considered general wanton destruction since it was not (in the category of) need or healing or other reasons for which one is permitted to utilize one's property.

Anyway, we see that it is not *always* a permitted thing to man to pain to his animals even if he profits from this. Rather those (activities) which man can really make use of like slaughtering his animals to eat and working them and similar things. And so it is permitted (to do these activities even if they cause suffering to the animals).

(Here, R. Feinstein summarizes his distinction between *mamash*, “real” profit and not-so-real profit.)

And likewise it was permitted to nourish them with better quality feed to season their meat and to fatten their meat in a way that people that eat their meat will enjoy it more ... than if she (the animal) would have eaten low growth grass. But not in a way that just deceives and disappoints that people who eat the thing.

(You shouldn't deceive people by causing a non-substantive improvement in the animal, causing them to think it will taste better simply because it's white.)

That also to people that don't have anything and are only tricked. To these people they see that the meat would appear white and not (even) a little red and they are tricked from

this that it is better meat for health and for enjoyment and they will pay more for this. Even ones that are lenient in eating and those that actually don't profit from this would it be permitted. From the law of the fraudulent representation when they recognized the truth that this is merely beauty (appearance) and that they are deceived from this to say that it is superior and better meat for enjoyment and health and similar things. It will be forbidden from the law of fraudulent representation as is expounded in the end of the chapter "Hazahav" ch. 4 of BM 60B, even when it doesn't cost more, but they do this in order to draw the purchasers to their store. This would be permitted if they inform the customers that white meat is no better, just prettier, and the customers would prefer to buy this nicer-looking meat.

In any case it is forbidden to cause suffering to the animal to eat things that they do not benefit from and from which they derive pain from the feeding. Also they are sick from this and suffer from their sickness. That this is done for the benefit of deceiving people and it is forbidden to do so from the prohibition of *tsaar baalei chayim*, which is toraitic. That people are not permitted this (by putting aside) *tsaar baalei chayim*.

Chapter 2

Discussion of Bava Metziah 32A- 33A

The primary source in the discussion of *tsaar baalei chayim* is the *sugya* found in BM 32 that revolves around the *mitzvah* of unloading and loading. Through a thorough analytical explanation of this *sugya*, the major aspects of *tsaar baalei chayim* begin to unfold. The purpose of this section is to follow the logic of the *sugya*, in order to create a foundational knowledge base for the *halachah* that develops subsequently from it.

Turning to the relevant section of the mishnah, it is stated, "If he unloaded and loaded, unloaded and loaded, even four and five times one is obligated (to do it again if necessary), as it says, 'You shall surely help' (Ex 23:5). If he (the owner) goes and he sits and he says, 'Since this commandment is upon you, if it is your will to unload, unload, ' he (the passerby) is exempt, as it is said, 'with him, ' (ibid.). If he (the owner) was old or sick, he (the passerby) is obligated (to unload and load by himself). The commandment in the Torah is to unload but not to load. R. Shimeon said- (The commandment also requires him) to load. R. Yosi the Galilean said – If he (the animal) had upon him more than his normal load, he (the passerby) is not obligated, as it says, 'under his burden, ' (ibid.) burdens that he is able to stand under. "

The Talmud begins by focusing in on the mishnaic statement that one is commanded to unload but not to load. This leads to a pointed analysis of the toraitic verses upon which these commandments are based. The Stam raises a *kashya* against the mishnah that surely it is commanded to both load and unload, for they are derived from verses using the same textual terminology. To unload is derived from Exodus 23:5, "If you see the ass of your enemy laying under its burden, and would you refrain from

unloading it, you shall surely unload with him.” To load is derived from Deuteronomy 22:4, “You shall not see your brother’s ass or ox fall down by the way, and hide yourself from them, you shall surely help him to lift them up again.” As the verse uses the same verb construct in the command, *azov taazov* and *hakem takim* respectively, how can there be any difference in their state of commandedness? A *terutz* is offered by suggesting that perhaps the mishnah meant only to differentiate the two acts in terms of their reward. That is, the act of unloading is done without reward, while loading is done for compensation.

The next section focuses on this distinction. The *Tana Kama* decides that there is a distinction between loading and unloading in terms of reward, while R. Shimeon, the minority opinion, holds that they are both done for free. The *Tana Kama* opinion, states the Stam, is based on the assumption that if both were meant to be for free, then the Torah need only to have commanded loading, for unloading would have been derived though *kal vachomer*. That is, if loading, which does not involve financial loss or *tsaar baalei chayim*, is a *mitzvah*, then all the more so should unloading, which *does* involve these issues, be commanded. Therefore, concludes the *Tana Kama*, there must be another reason that they are both commanded, and that is to differentiate them in terms of reward. However, R. Shimeon, explains the Stam, believes that it is not clear which of the verses speaks of unloading and which of loading. Therefore it was necessary to have both statements. In other words, the two verses do not exist in order to speak of reward.

This argument continues to be expounded by the Stam and at the end of this section Rava jumps in and makes a vital conclusion, “From the words of both of them we have learned that *tsaar baalei chayim* is a toraitic obligation.” His conclusion is based on

the assumption that if R. Shimeon had thought that the verses were clear, then indeed he would have agreed with the *Tana Kama*'s reasoning that unloading is more stringent as there is both financial loss and *tsaar baalei chayim* involved. In other words, in Rava's opinion, since *tsaar baalei chayim* in theory could drive the *kal vachomer reasoning*, it must then be considered a toraitic obligation. One must understand that this conclusion differentiates between the commandment of *perikah*, unloading, and that of *tsaar baalei chayim*. Here Rava is saying that *tsaar baalei chayim* is a distinct toraitic *mitzvah*. His conclusion forms the cornerstone of this area of *halachah* and will be cited by many other commentators as will be discussed below.

The next section of the *sugya* continues on to debate whether in fact this is a true statement. The Stam goes back and forth about whether or not *tsaar baalei chayim* is a toraitic obligation. It is through this banter that various issues relating to *tsaar baalei chayim*, which will later be expounded upon by the halachic codes, are raised. Perhaps it is not toraitic, as the *kal vachomer* could actually be based upon the risk of financial loss involved in unloading and not loading. However, the Stam rejects this by saying that loading too may involve financial loss, so this issue could not drive a *kal vachomer*. The Stam then turns back to the mishnaic statement, "R. Yosi the Galilean said – If he had upon him extra on his pack, he (the passerby) is not obligated, as it says, 'under his burden' (ibid.), burdens that he is able to stand under." The Stam interprets this to imply that the *Tana Kama*, as opposed to the position of R. Yosi, *does* hold that the passerby must assist even if the pack is too heavy. While it is not clear whether or not this still falls under the *mitzvah* of unloading, the Stam concludes it definitely would fall under the toraitic obligation of *tsaar baalei chayim*. However, the Stam then goes on to reject this

reasoning, saying that it is only R. Yosi who expounds, “under his pack”, while the *Tana Kama* does not.

Next, the Stam turns to yet another part of the mishnah, “(If) he goes and he sits (the owner) and he says to him (the passerby), ‘Since the *mitzvah* is upon you, if it is your will to unload, unload’, he (the passerby) is exempt. As it says, ‘with him’. From this, the Stam concludes that *tsaar baalei chayim* must not be toraitic. For, why would one be exempt from the *mitzvah* of unloading in the case of the owner not assisting, if there was the additional *mitzvah* of *tsaar baalei chayim*? However, this too is rejected by raising the issue of reward. Just as it was concluded that loading is done for a reward, so too is it concluded that unloading without the assistance of the owner is done for a reward. That is, one must do it under the *mitzvah* of *tsaar baalei chayim*. However, since the *mitzvah* of unloading is meant to be done “with him”, that is with the owner, one is rewarded for the act.

The discussion of the nature of *tsaar baalei chayim* now takes a turn through a series of quotes from *baraitot*, dealing with the animals of Gentiles. The first *baraita* states, “An animal of the idolaters, one takes care of it as an animal of a Jew.” The Stam says that this supports the notion that *tsaar baalei chayim* is toraitic. But what if one holds that *tsaar baalei chayim* is not toraitic? How can this opinion be reconciled with the *baraita*? The *terutz* offered is that one must help the animal of a Gentile, not because of *tsaar baalei chayim*, rather because of the *mitzvah* of preventing enmity between the Jews and the Gentiles. This statement brings to light the fact that there can be different reasons for the same action. One can unload because of the *mitzvah* to unload, because of

the *mitzvah* of *tsaar baalei chayim*, or because of the *mitzvah* to prevent feelings of enmity with the Gentiles.

The next significant *baraita* states, “An animal of idolaters and its pack of a Jew, ‘and would you refrain’, ” (Ex 23:5). The Stam concludes that if one is able to refrain from helping to unload an animal of a Gentile, then *tsaar baalei chayim* can not be toraitic. However, this is rejected by explaining that the *baraita* is in reference to loading, which does not involve pain to the animal, while Exodus 23:5 is in reference to unloading, which does. Continuing to analyze this particular *baraita*, the Stam looks at the end of it, which states, “An animal of a Jew and the pack of an idolater, you shall surely help”. If this is truly about loading, why then does it teach that “you shall surely help”? A new aspect is now introduced into the discussion: the pain caused to the Jewish owner of the animal. That is, once again, there are different reasons for the same action. One is commanded to help the fellow Jew so he doesn’t feel pain, or anguish, by having to wait there for an extended period of time. The discussion continues on this subject until it comes to the conclusion that this *baraita* is attributed to R. Yosi, the same rabbi who said that *tsaar baalei chayim* is not toraitic. Therefore, this *baraita* does not bear upon the argument at hand.

Turning to yet another *baraita*, “(If you come upon) a friend (who needs) to unload, and an enemy (who needs) to load, it is a *mitzvah* (to help) the enemy in order to bend your will.” This is an important aspect of the *sugya* as it brings up the possibility that even if *tsaar baalei chayim* is a toraitic obligation, there still may be other *mitzvot* that supercede it. The Stam explains that though it may appear from this *baraita* that *tsaar baalei chayim* is not toraitic, it may simply be the case that there are times when

even a toraitic *mitzvah* is suspended by another *mitzvah*. In this case, the Stam concludes that the value of moral discipline, by the act of loading the ass of one's enemy first, takes precedence over *tsaar baalei chayim*. This concept, and others relating to the issue of suspending the rules of *tsaar baalei chayim*, will be expounded upon by later halachic commentaries (see below).

The next piece of relevant text is a *baraita* in which the position of the animal, under discussion is analyzed. "It is lying down- and not that it always lies down. It is lying -and not standing. Under his burden- and his burden hasn't been unloaded yet. Under his burden- a burden that he is able to stand under." If *tsaar baalei chayim* is toraitic, why, asks the Stam would it matter which position the animal is in? Isn't one still obligated to prevent its suffering no matter the position? Again, attributing this teaching to R. Yosi who, it has already been established, does not hold *tsaar baalei chayim* to be toraitic solves this dilemma. This is the conclusion of the relevant section of this *sugya*.

After following the logic of BM 32, it is important to highlight the major points that have been established. First of all, it is clear that there is a *mitzvah*, distinct from that of *perikah*, unloading, called *tsaar baalei chayim*. Furthermore, it appears that the majority opinion based upon that of the *Tana Kama* is that this *mitzvah* is a toraitic obligation. The nature of this *mitzvah* also begins to unfold from this *sugya*. It seems to have a wider scope than that of unloading, demanding action at times when the strict *mitzvah* of loading/unloading may not. There are times when acting under the rubric of this *mitzvah*, but beyond that of loading/unloading, one is rewarded with compensation. And finally there is the way that this *mitzvah* interacts with others. As is discussed

above, there are times when the rules of *tsaar baalei chayim* give way to other *mitzvot*, and, as will be discussed further on, there are times when other *mitzvot* are suspended in order to give priority to *tsaar baalei chayim*.

Chapter 3

The Character of *Tsaar Baalei Chayim*: A Discrete, Toraitic *Mitzvah*

One of the major points made by BM 32-33 is that *tsaar baalei chayim* is in and of itself a *mitzvah*, and it is one that is commanded by the Torah. That is, there is a *mitzvah* to prevent the suffering of animals that stands on its own, separate from the *mitzvah* of unloading. Furthermore, this obligation is considered toraitic in nature. This, the majority opinion in the *sugya* is later supported in halachic commentaries and codes. This section will trace this halachic discussion.

In the 13th Century, R. Asher b. Yechiel (the Rosh) commented upon the Stam's statement, "Rava said from the words of both of them we learn that *tsaar baalei chayim* is toraitic." The Rosh stated, "And although the gemarah raises difficulties against Rava's view, we hold it to be *halachah*," (3:28). He then continues on to clarify the distinct nature of this *mitzvah* by stating that even if one is not obligated to help an animal under the laws of *perikah*, unloading, he may still be obligated by *tsaar baalei chayim*. From this, one understands that the *mitzvah* of *tsaar baalei chayim* is wider in its scope than that of *perikah*. One must unload an animal even if the owner does not assist, even if the owner is a Gentile and is not present, and no matter what the position of the animals. The practical aspect of this differentiation is that one who performs the action under the rubric of *tsaar baalei chayim*, and outside that of *perikah*, is entitled to compensation.

In his commentary on the work of R. Alfasi (the Rif), the Nimukei Yosef (NY) clarifies that the Rif also holds that *tsaar baalei chayim* is toraitic (folio 17B on "Because of *tsaar baalei chayim*") and that the Rif made subsequent rulings based upon this

opinion. As for distinguishing this *mitzvah* from that of *perikah*, the NY brings in the opinion of R. Nissim b. Reuven Gerondi (the Ran) about compensation for unloading. The Ran disagrees with the opinion that one is compensated for unloading when he is prevented from going to his normal day job. He holds, rather that one may not be compensated for unloading since it involves *tsaar baalei chayim*. However, if the owner of the animals is not working beside him, he may be rewarded, as the fine is actually a punishment against the owner. From the Ran's comment, it is clear that the *mitzvah* of *tsaar baalei chayim*, while interacting with that of *perikah*, demands different actions and results in different consequences.

Turning to Rambam's Mishnah Torah (Rotzeach V'shmirat Nefesh 13), the majority of the *halachot* in this chapter discuss the *mitzvah* of *perikah*. Again, this is a reminder that this is not the same as that of *tsaar baalei chayim*. In fact, it is not until paragraph 13 that the Rambam discusses this commandment. In the case where a passerby meets two animals, one needing unloading and one needing loading, the Rambam teaches that one must unload first in order to prevent suffering to the animal. However, a vital detail of *halachah* is that the owners of the animals must both be friends or both be enemies of the passerby. For, if one is a friend and one an enemy, another dimension is drawn into the scenario that will be dealt with below. While the *mitzvah* of *tsaar baalei chayim* drives the *halachah*, it is also important to note that the Rambam, compared to earlier and later halachists, does not explicitly state that this is a toraitic *mitzvah*.

In contrast to the Rambam, the toraitic nature of *tsaar baalei chayim* is stated more clearly in the words of the Tur and the Beit Yosef (BY) commentary. Commenting

upon the above situation of one animal needing to be unloaded and one needing to be loaded, the Tur also says that one unloads first (Tur Ch”M 272:10). However, through the words of the BY it is noted, “This is according to the one who says that *tsaar baalei chayim* is toraitic,” (ibid.). That is, according to the BY, the reason why both the Rambam and the Tur ruled that one must unload first is that they must hold that *tsaar baalei chayim* is a toraitic commandment. In the next paragraph (11), the Tur does clearly state, “We hold that *tsaar baalei chayim* is toraitic,” and he continues on, like the Rosh, to state the opinion that this *mitzvah* calls for action beyond that of *perikah*. It is notable to point out that whereas the Rambam does not hold that one needs to unload without the assistance of the owner of the animal, the Tur holds that under the rubric of *tsaar baalei chayim* one is not exempt. Further on in the Tur (paragraph 14), the wider nature of this *mitzvah* is illustrated through his comment that one is obligated by the *mitzvah* of *tsaar baalei chayim* to unload from an animal of a Gentile, even if the owner is not there.

The Shulchan Aruch (SA) on this subject (Ch”M 272) is basically word for word a reiteration of the Rambam. However, the comments of R. Moshe Isserles (the Rema) are an important addition to the discussion. In contrast to the opinion of the Rosh and the Tur, the Rema does not bring up the *mitzvah* of *tsaar baalei chayim* in the situation, in which the animal habitually lays or is standing. Therefore, he holds like R. Yosi in BM 33A that one is exempt from the obligation to unload (paragraph 1). However, in contrast to R. Yosi, he does not go as far as to say, that this is because *tsaar baalei chayim* is rabbinic. In fact, in paragraph 9, he comments on the situation of unloading an animal of a Gentile, explaining, “Behold, to unload, one is obligated if the Gentile is not

there because of *tsaar baalei chayim*, which is toraitic. And so in any case where he may be exempt from unloading, because of *tsaar baalei chayim*...he is obligated.” While it is not clear if the position of the animal is exempted from this general rule, it appears that the Rema agrees with the majority that *tsaar baalei chayim* is a toraitic *mitzvah* in and of itself and that it obligates one to action often when *perikah* does not.

The Aruch Hashulchan (ArHs), a modern commentary (early 20th Century), summarizes and agrees with the majority opinion on the nature of *tsaar baalei chayim*. Describing a situation in which the owner of the animal has loaded a pack that is too heavy for the animal to carry, he states that one is still obligated to unload. Why? First of all under the *mitzvah* of *perikah* he is obligated. And secondly, “...there is the pain of the animal. And *tsaar baalei chayim*, the majority of poskim agree, is a *mitzvah* from the Torah to save them from their pain,” (Ch”M 272:2). He then goes on to state the opinion of HaGaon R. Eliyahu (HaGra) who also held that the *mitzvah* of *tsaar baalei chayim* obligates one even in circumstances beyond that of *perikah*. In terms of this aspect of the *mitzvah*, ArHs illustrates his agreement with HaGra by saying that one must unload without the owner (paragraph 7) and by re-quoting the opinion of the Rema that one must unload the animal of a Gentile, even if he is not there (paragraph 10). Finally, he agrees with the opinion of the BY that one must unload first if there is an animal needing unloading and one needing loading because of *tsaar baalei chayim* (paragraph 12).

In conclusion, *tsaar baalei chayim* is defined by the Talmud as a discrete, toraitic *mitzvah* and this opinion is later validated and fleshed out by the halachic codes. Time and again it is made clear that *tsaar baalei chayim* has wider scope than the *mitzvah* of *perikah*. That is, there are specific circumstances that may exempt one from unloading

under the strict rubric of *perikah*. However one may not be exempt from the action under the rules of *tsaar baalei chayim*. There it can be stated that the value of preventing suffering to animals applies in a wide range of situations. With this established, the discussion turns to probe just how far these situations extend.

Chapter 4

Tsaar Baalei Chayim in Relation to Other Values
Part I: *Tsaar Baalei Chayim* Continues to Operate

Now that the essential character of this *mitzvah* in halachic literature has been established, a reality must be faced: *mitzvot* do not operate in isolation. No, they are constantly faced with other values that are also of importance. Sometimes, it is impossible for the two values in their fullest forms to coexist. Hence, the question arises: How does *tsaar baalei chayim* play itself out in the face of this reality? By examining the halachic codes, two answers are established: the rules of *tsaar baalei chayim* continue to operate or the rules of *tsaar baalei chayim* are suspended in lieu of a competing value. In this section, the former will be discussed. As the various scenarios are described, it becomes clear that there are three distinct ways in which this *mitzvah* is fulfilled in the face of a competing value: by coexisting with the other value, by bending the other value, and by breaking the rules of the other value.

The laws pertaining to the recitation of *berachot* is one area in which *tsaar baalei chayim* contends with another law. According to the general rule in Brachot 40A, one who interrupts a blessing by speaking between the blessing and its required action, must repeat the blessing. In the midst of this discussion, Rav says that there are certain things that one can say that are exempt from this rule. For instance, one may tell another person at the table to take a piece of bread, and this would not be considered an interruption. Rashi explains that any type of conversation that has to do with the blessing is actually not considered an interruption. In the midst of this *sugya*, the question is raised as to whether it is considered an interruption to tell someone to feed the oxen. While R.

Yohanon claims that it is, Rav disputes this opinion by bringing scriptural proof that this is actually a toraitic permission. Quoting Deuteronomy 11:15, "...and I will give you grass in your field for your animals and you will eat and be satisfied." Rav interprets this to mean that only after one has fed his animals, can he himself eat. Thus, he holds that this statement would fall under Rashi's category of having to do with the blessing; for in order to eat, one is commanded to have taken care of the nourishment of his animals (as clarified by the SA O"Ch 167:6). Therefore, it is not considered an interruption. While the term "*tsaar baalei chayim*" is not explicitly stated in this *sugya*, the command to care for one's animals' basic needs is given importance. In this case, *tsaar baalei chayim* coexists with the another commandment, that of the how to recite *berachot*, as interpreted by Rav.

Another realm of the *halachah* that often comes into contact with *tsaar baalei chayim* are the laws pertaining to Yom Tov and Shabbat. Throughout the halachic literature there are cases in which the actions necessary to prevent the suffering of an animal may cause one to break these laws. However, by examining these cases it becomes evident that this is not the only answer.

In Shabbat 117B, there is a discussion of one of these other solutions: *ma'arim*, bending the law. The story is told of a dispute between R. Eleazar and R. Yehoshuah about what to do on a Yom Tov if an animal and its offspring fall into a well. The general rule is that one animal is permitted to be slaughtered on a Yom Tov, as it will be eaten that day. Hence it would not be considered *muktseh* to lift one out of the well. However, what happens when two animals are in the well? R. Eleazar answers that one lifts one animal out and brings the other food in order that it won't suffer, or die. This

answer falls in the category of *tsaar baalei chayim* coexisting with the Yom Tov rules. However, R. Yehoshuah answers differently. According to the Stam, R. Yehoshuah is thinking of situation in which it is not possible to prevent suffering by bringing food to the animals. Therefore, suggests R. Yehoshuah, one must bend the law. How is this done? By raising one animal out of the well with the intention of slaughtering it, but without actually following through on this intent. After that, the second is raised. Since the first animal was never slaughtered, one could also be raising the second with the intention to slaughter it and so it would not be considered *muktseh* either. As stated clearly by the Rambam, “Because of *tsaar baalei chayim* they permitted him to bend the law (of Yom Tov), “ (MT Yom Tov 2:4).

Looking at Shabbat 128B, the final solution to the existence of other values alongside *tsaar baalei chayim* is depicted: breaking of the competing law. In this *sugya* there is an animal that is trapped in an enclosure of water. Rav says that one may bring pillows in order that it may step on them to climb out. The problem with this solution is that it would break the rabbinic prohibition against nullifying vessels from their preparedness on Shabbat. The Stam states that if it is possible to prevent the animal from dying by bringing food to it in its place, one should do so. This would fulfil *tsaar baalei chayim* without breaking a Yom Tov law. However, in the situation where it is not possible to save the animal with food, the Stam agrees with the opinion of Rav. How does the Talmud justify breaking a Yom Tov law? It goes on to explain that since *tsaar baalei chayim* is a toraitic *mitzvah* it comes and supercedes the rabbinic prohibition against nullifying vessels.

This resolution, that the rabbinic is suspended for the sake of the toraitic, is also illustrated in the *maaseh* told in Shabbat 154B. The story is told that R. Gamliel did not want to unload the pack on his ass during Shabbat. By the time Motzei Shabbat came, the animals had died from the duress. The Stam continues on to examine this decision. First of all, according to the Stam, there were certain measures that R. Gamliel could have taken to relieve the burden without breaking Shabbat. He was permitted to release the ropes on his pack and let it fall to the ground. The discussion moves on to explore the option of placing pillows under the packages in case they are breakable. Again, there is the problem of nullifying the pillows from their preparedness. Rashi comments that the toraitic *mitzvah* of *tsaar baalei chayim* supercedes this rabbinic law. The *maaseh* is solved as the Stam states the opinion of R. Gamliel is that *tsaar baalei chayim* is not toraitic and so he would not deem it to take precedence over the rabbinic laws of Shabbat.

Many halachic codes on this subject, that of the *tsaar baalei chayim* superceding the rabbinic law about nullifying vessels, simply reiterate this opinion (Rosh 3:28, MT Shabbat 25:26, SA 305:19, MB 68, 69). However, there are a couple of remarks that add new aspects to this discussion. The NY, holds that this ruling only applies in the situation in which the animal is in considerable pain (Folio 17B on “Because of *tsaar baalei chayim*”). In other words, the decision to bring the animal food in its place or to raise it out is determined by the amount of pain it is in. Only in a situation of great pain, may the toraitic come to supercede the rabbinic. The Mishnah Brurah (MB), on the other hand, comments on the general pattern of the toraitic superceding the rabbinic, “...It is forbidden to us to draw analogies between the decrees of the Sages one to another, ”

(O"Ch 305 no. 70). That is, according to this opinion, one can not necessarily extrapolate from this particular decision that *tsaar baalei chayim* supercedes all rabbinic laws.

In addition to the above cases arising from talmudic *sugyot*, there are a few cases in the halachic literature that are worth noting due to their interaction with *tsaar baalei chayim*. The first law is that against telling a Gentile to perform an act that a Jew is unable to do because of the laws of the day (see Shabbat 150A). The Rosh states the opinion of R. Meir that if a cow is full of milk on Shabbat and it is suffering from its fullness, one is permitted to request from a Gentile to do the job that he himself can not do (3:28). According to R. Meir this is because *tsaar baalei chayim* is toraitic and supercedes the rabbinic prohibition against speaking to a Gentile. The SA agrees with this opinion while adding the caveat that the Jew may need to pay for the milk. This is in order to prove that he is telling the Gentile to milk it not for his own greed, but rather to relieve the animal's suffering (O"Ch 305:20). This lends further evidence to the fact that the driving motive behind breaking the prohibition is the *mitzvah* of *tsaar baalei chayim*. And finally, the MB extends this permission to request help from a Gentile to the releasing of geese so that they can get to their food (ibid. no.71). He even goes as far as saying that one may need to break Shabbat laws and do the job himself if a Gentile is not available. However if possible, in this situation one should try to bend rather than break the law, by having a child, one who is not yet obligated by the *mitzvot*, to do this job.

Another area in which the law of the Shabbat is broken is that of descending. Both the Mishnah Torah (Shabbat 21: 9) and the SA (O"Ch 305:18) agree that the laws pertaining to descending from trees are different than those about descending from animals. Whereas one is not permitted to descend a tree if he has climbed it with intent,

one *must* descend from an animal whether he has climb it by mistake or with intent. The law of *tsaar baalei chayim* demands that he must not remain on the animal throughout Shabbat. The MB (ibid. no. 64) clarifies that the laws against climbing are similar between trees and animals. However, one is not punished for climbing an animal in the same way as a tree. For, if one had to remain on the animal until Motzei Shabbat, it would cause suffering to the animal.

The last area to be examined takes the discussion of *tsaar baalei chayim* right back to where it started: the laws of *perikah*. What does one do if, like in the above *maaseh* about R. Gamliel (Shabbat 154B) one is left with a loaded animal come Shabbat? According to the Stam and later the Rambam (MT 21:10) and the SA (ibid.) one need not break the laws of the day in order to fulfil the *mitzvah* of *perikah*, unloading. However, one must unload because of *tsaar baalei chayim*. Rambam details exactly how one goes about unloading, "...he places his head under it and raises it to the other side and it falls from it..." In this way and by loosening the ropes on the pack, one is able to unload without breaking Shabbat restrictions.

It is evident from this discussion that *halachah* considers *tsaar baalei chayim* such an important toraitic *mitzvah* that it has the authority to exist in the face of other important values. Furthermore, not only can it exist with other values, but also the command of preventing the suffering of animals can even demand that one break other laws. How far does this trend go? Just how much weight does *tsaar baalei chayim* hold in the halachic tradition. As the analysis continues, the limits of the operation of *tsaar baalei chayim* will also be explored.

Chapter 5

Tsaar Baalei Chayim in Relation to other Values
Part II: *Tsaar Baalei Chayim* is Suspended

The discussion now focuses on the second mode of operation between the *mitzvah* of *tsaar baalei chayim* and other values: that which permits the suspension of *tsaar baalei chayim*. When does this happen? What defines a situation in which one can ignore the rules of *tsaar baalei chayim*? There are two very specific areas that come straight out of talmudic *sugyot* in which another value overrides that of *tsaar baalei chayim*. These are actions that are done for the sake of moral discipline and those that are done to show honor to an individual. Later in the development of *halachah* a much broader yet murkier category also comes to the fore: that of the “human need”.

According to the Talmud and the major halachic literature subsequently, the rules of *tsaar baalei chayim* give way to the imperative of learning moral discipline. This conclusion finds its source in the original *sugya* on *tsaar baalei chayim*, BM 32-33. In an effort to show that *tsaar baalei chayim* is actually not toraitic, the Stam brings a *baraita* in which it is taught, “(If you come upon) a friend (who needs) to unload, and an enemy (who needs) to load, it is a *mitzvah* (to help) the enemy in order to bend your will.” This case stands in contrast to that discussed above, in which one is obligated to unload first, because there the owners of the animals are both friends or both enemies. However, in this case, the pain of the animal of one’s friend that needs to be unloaded is deemed of secondary importance to the moral challenge of assisting one’s enemy in loading. Furthermore, the Stam states that this preference does not, in and of itself, prove that *tsaar baalei chayim* is not toraitic. Rather, it is possible for a toraitic *mitzvah* to be put aside, giving preference to another value. Here, the Stam holds that it is more important

for the individual to subdue his natural inclination to hate than it is to relieve the suffering of an animal.

All the major halachic writers agree that moral discipline, in this case, takes precedence over *tsaar baalei chayim*. The detail of this *halachah* that is disputed is the identity of the enemy. In the talmudic passage, the Stam clarifies that this is a Jewish enemy. That is, as Rashi comments, it is not the enemy referred to in Torah, “If you see the ass of your enemy laying under its burden, and would you refrain from unloading it, you shall surely unload with him,” (Ex. 23:5). The Rif (folio 17b), the Rambam (Rotzeach V’shmirat Nefesh 13:14), the SA (Ch”M 272:11), and the Rema (Ch”M 272:10) all agree with the Stam that the enemy spoken of is not of the nations of the world, but rather is a Jew. Why, then, is he called “an enemy”, if he is a Jew? The consensus answer is found in the Rambam (ibid.) when he states that it is a *mitzvah* to hate a fellow Jew who has sinned and failed to repent. The other side of this argument holds that the enemy is not a Jew, but *is* indeed the enemy spoken of in the Torah (Ex 23:5), an ordinary enemy of the nations of the world. The NY (folio 17b) and the BY (Ch”M 272:10) hold this opinion. As the NY quotes the Ramban, “Here we deal with an ordinary enemy, who has done him an injury, something he finds hateful.”

One may ask, why is this detail relevant to understanding the rules of *tsaar baalei chayim*? Perhaps it sheds light upon the nature of the value of moral discipline. That is, it shows how important a value must be in order to take precedence over relieving the pain of an animal. From the first opinion, that the enemy is a Jew, the point is that one must help even a person that has committed a sin and not repented. On the other hand, to those who hold that the enemy is an ordinary enemy from the nations of the world, it

teaches that one must help someone who is an outsider. It appears that from either of these definitions of “enemy”, there is a great moral challenge involved. Therefore, the *halachah* teaches that this moral growth is even more important than relieving the pain of an animal.

Turning to the other value that suspends the rules of *tsaar baalei chayim*, the issue of showing honor to certain individuals arises. In AZ 8-11, there is a discussion about the practice of burning the articles of a king at his funeral. After concluding that this practice is not considered idol worship, the question is raised as to the nature of what can be burned for the sake of honoring a king. A *baraita* is brought, “They mutilated for the sake of kings and there is nothing in it of the ways of the Amorites.” Rashi clarifies that it is an animal that is mutilated. In other words, in this *sugya* there is a description of a permitted custom of mutilating an animal at the funeral of its royal master. This was considered a way of showing honor to the dead. Thus, while the terminology is not explicitly used, it is clear that *tsaar baalei chayim* is suspended for the sake of honoring of kings.

This teaching is indeed unmistakable in the Tosefot (BM 32) comment on this *sugya*. It states that the honor of the king or chieftain takes precedence over *tsaar baalei chayim*. The dynamic of this decision is illustrated by comparing it to the way that the prohibition against wanton destruction is also waived for the sake of honor. This, says the Tosefot, was the situation in the *maaseh* about Onkelos who burned 70 Tyrian manehs to show honor to R. Gamliel (AZ 11). Scriptural proof is the final touch added by the Tosefot, “And the Lord said to Joshua, do not be afraid because of them, for tomorrow about this time I will deliver all of them, slain, before Israel. You shall

mutilate their horses and burn their chariots with fire, “ (Josh.11:6). From this, it is claimed that there is indeed, precedence for suspending the rules of *tsaar baalei chayim*.

Up to this point in the discussion it has been stated that one can cause pain to an animal for the sake of honoring kings. The question remains how far does this permission reach? In other words, can *tsaar baalei chayim* also be suspended to show honor to others? Turning to the Mishnah Torah (Rotzeach V'shmirat Nefesh 13:3), the Rambam claims that this rule is extended to elders, as well. Why is the elder not obligated to load and unload from an animal? “Since it isn’t according to his honor.” That is, just as mutilation of animals *shows* honor to a king, making an elder load or unload *takes away* from his honor. Therefore, the Rambam claims he is exempt from this action. Later, the Nimmukei Yosef (Folio 17b on “Because *tsaar baalei chayim*”) further explains this exemption. Quoting the Ramban, he states that the reason an elder is exempt from unloading, even though *tsaar baalei chayim* is toraitic, is that showing honor to Torah, i.e. one who is learned in Torah, takes precedence over relieving the pain of an animal. In other words, it is not honor only to the individual; rather it is honor to the Torah *itself* that calls for the suspension of the rules of *tsaar baalei chayim*. In his next comment, the NY brings the opposing opinion of the Ranber who says that the exemption is applied to anyone who is honored, not just one who is learned in Torah. This is a much wider understanding of the exemption. However, it is taken to yet a wider definition, when the NY quotes the Rambam as saying that *tsaar baalei chayim* is waived in cases of the needs of human beings (this will be addressed below). So if this is true, then all the more so is it suspended for the sake of honor.

Up to this point, the discussion has revolved around two very specific values brought up in talmudic *sugyot* and later clarified by halachic literature. However, there is another, larger value that has grown out of the talmudic teachings: “human need”. This value will play a crucial role in the general discussion of this thesis. However, in this section the focus will be specifically on its presentation in the halachic codes.

Sefer Hachinuch (SH) teaches the reason that humans are able to eat animals is that they are at the top of the biological chain of creation (451). Because of their location on the hierarchy of creatures, the Torah allows humans to use animals for certain needs such as sustenance. However, he goes on to say that the Torah does not permit humans, “to cause them senseless pain”. As the discussion unfolds about suspending *tsaar baalei chayim* for the needs of man, it is already evident that there are certain permissions as well as limits to those permissions. The reader must ask what does the law permit in the face of cruelty to animals and what does it not permit? In SH it is stated that man is permitted to consume animal. However, the method of killing them, *shechitah*, does not cause too much pain. That is, the permission is to eat the animals, while the limit is on the amount of pain caused in the process.

The next piece of text forms the cornerstone of the discussion of human need. It is upon this comment of the Rema that many later responsa will rest. Commenting on the prohibition against giving an animal to a Gentile who it is known will castrate it, the Rema widens the dimension of the discussion, “Anything that is needed for healing or for similar things that do not (violate) the prohibition of *tsaar baalei chayim* (Issur Veheter 59). And so it is permitted to pluck feathers from live geese and one does not take into consideration *tsaar baalei chayim* (i.e., there’s no concern that this violates the

prohibition), (R. Yisrael Isserlein, 160). And in any case we refrain from this because of cruelty, ” (E”H 5:14). This comment leaves the reader with more questions than it does with answers. It is clear that the Rema deems *tsaar baalei chayim* to be suspended in certain cases. One example of this is for the purposes of human healing. However, what are the ”similar things” to healing that can also suspend the rules of *tsaar baalei chayim*? How is this category defined? This is not made clear. The next question that arises is how does the plucking of goose feathers fall into the category of ”healing” or ”similar things”? This action seems to be for the purpose of some type of financial benefit, although the Rema does not explicitly state this. Does financial benefit constitute ”human need” according to the Rema? Again, this is unclear. Finally, there is the critical concluding sentence, in this commentary that states that although *tsaar baalei chayim* is suspended for acts such as plucking goose feathers, one does not do this due to the issue of *achzari’ut*, cruelty. Cruelty, according to the Rema, is a dimension of this discussion that goes beyond the realm of *tsaar baalei chayim*. That is, even if an act is permitted by means of suspending *tsaar baalei chayim*, it may be forbidden under the rubric of cruelty. So, according to the Rema, *tsaar baalei chayim* is suspended for healing and similar purposes. However, a limit is placed on these actions by the cruelty factor.

Turning to a later responsum, the different implications of the Rema’s comment begin to take shape. The question is posed by Sage R. Menachem Unna about a situation in which animals may die in the process of testing a drug on them that could eventually serve human needs. After going through a few proofs of why this may be acceptable on the basis of human benefit overriding *bal tashchit*, the rabbi gets to the essence of his question: How do the rules of *tsaar baalei chayim* play themselves out in this case?

R. Yaakov Reisher answers by analyzing the issue of human need in relation to *tsaar baalei chayim*. His first statement strongly asserts that, based on previous responsa, two types of need fall into the category of superceding *tsaar baalei chayim*: medical and financial. He then moves on to quote the Rema's comment, which supports the opinion that for medical purposes the laws of *tsaar baalei chayim* are put on hold. The source of this comment, he explains, can be found in the comments of the Tosefot on AZ chapter 1. Here they rule that *tsaar baalei chayim* is suspended for the sake of showing honor to kings (by mutilating their horses at their funerals). However, R. Reisher questions the extent to which one can extrapolate from the actions done for kings to those done for common people. Moving on, R. Reisher reaches back before the Rema to bring talmudic evidence for using animals for medical purposes, though they it may cause them pain. Both Shabbat 77B and 109B teach that one of the purposes of animals is for the healing of humans. Furthermore, it is shown in Shabbat 109B that humans are *permitted* to use them for these purposes. Next, the rabbi brings proof for his statement that *tsaar baalei chayim* is suspended for the sake of financial need. In a *sugya* in AZ 13B it is taught that in order to make a profit one may clip the wings of a hen. R. Reisher comments that though this process caused a lot of pain, it was permitted for the sake of profit.

Having established permission to violate *tsaar baalei chayim* for the sake of medical and financial need, it would appear that the experiment under question would be allowed to be performed. However, at this point in the *teshuvah* the author turns back to the final, ambiguous, comment of the Rema, "...And in any case we refrain from this because of cruelty." How does this limit to the permission of "human need" apply in the case at hand? According to R. Reisher, cruelty is shaped by a dimension of time added to

that of pain. That is, only pain that is experienced *immediately* after the action has been performed is considered cruelty. He gleans this from the example used by the Rema of plucking feathers from geese. According to R. Reisher, this action was considered cruel by the Rema because the goose felt pain immediately after the feathers were plucked. However, in the experiment under question, the situation is much different. The animals will not feel pain right away. Rather, any pain resulting from the drug, will be felt some time later. Therefore, according to his definition of cruelty, the experiment does not fall under this rubric. Hence, it is permitted by the permission to suspend *tsaar baalei chayim* in cases of medical need.

Having traced the discussion of this responsum, one must now analyze the soundness the logic involved. It is clearly proven both from the evidence in the Rema and in the Talmud, that this experiment would be permitted under the rubric of medical purposes suspending *tsaar baalei chayim*. A problem, in the logic, however, falls at the end of the *teshuvah*. In his discussion of cruelty, R. Reisher defines it according to the timing of the pain. It is not clear, however, upon what this definition is based outside of conveniently shaping it to the case under question. This does not seem like a satisfactory definition of cruelty. He has simply taken one case, that of plucking feathers and found a way to differentiate it from the case in question. There are many factors, however, which make the cases similar. R. Reisher seems to be reading convenient reasoning back into the Rema's commentary. It is obvious that, by doing so, R. Reisher has created a way for the cruelty dimension, which the Rema says does not supercede *tsaar baalei chayim*, to not apply to his case.

Turning to yet another responsum that struggles to define “human need” in the face of *tsaar baalei chayim*, the writing of R. Moshe Feinstein on the issue of veal calves becomes relevant (Iggeret Moshe E”H part 4, no. 92). This *teshuvah* opens with a description of how calves that are raised for veal spend their lives. R. Feinstein describes the small living spaces, the lack of contact with other cows, and the food that they are given. He compares this practice to that described in the Talmud (Bechorot 39) that teaches that one must treat a cow that is untied and that is in the company of other cows. After showing this contrast R. Feinstein continues to explain that due to the current treatment of veal calves, many of these animals end up with internal damages that render the meat *treif*. Therefore, he states, this treatment should be forbidden. Furthermore, people should not eat this meat, even if labeled kosher, as *treif* parts of the intestines may have been overlooked.

After examining this issue from the perspective of *kashrut*, R. Feinstein moves on to examine it under the laws of *tsaar baalei chayim*. He begins by claiming that treating calves in this manner does indeed violate *tsaar baalei chayim*. However, aren’t human needs permitted to suspend these laws? Does this business fall under this category? At this point, he begins to search for a definition of “human need”: “...To slaughter them for food and work them for plowing and pack them and the like.” Using toraitically permitted actions with animals; R. Feinstein creates a definition of human need. Furthermore, he implies that these needs supercede any pain that is caused to the animals. He then goes on to further chisel away at a more precise definition. First of all, while certain human needs take precedence over *tsaar baalei chayim*, one can not cause an animal senseless pain. Secondly, the act that causes pain to the animal must be one that

people regularly undertake. And finally, he makes a distinction between two types of “human need” or profit. *Tsaar baalei chayim* is only suspended for real profit, like that of food and labor. However, it may not be suspended for other types of profit that R. Feinstein does not deem so real. Under this category he brings the example of cruel actions that one might be tempted to do to animals in order to ease anguish in times of mourning (Shabbat 105B).

How does this definition of need apply to the case of veal calves? According to R. Feinstein, veal is raised in the way he described for the purposes of deceiving people. That is, the animals are raised in a way that creates a white color on its flesh, because people are under the delusion that pale meat is somehow healthier and/or tastier than red meat. This is considered fraudulent representation, which is forbidden in BM 60B. He states that only if customers were informed that the color of veal has no effect on the nutrition or the taste of the meat would such activity be permitted. The type of profit made from such deception, however, does not fall into the category of “real profit” as expounded above. In the concluding sentences, he states that the process of raising veal is forbidden on account of there not being of any “real profit” resulting from the pain process which the animals experience.

How does the reasoning of the above *teshuvah* support the conclusion that one may not suspend the rules of *tsaar baalei chayim* in order to raise veal calves? Halachically, this is actually a very problematic *teshuvah* in that it makes strong assertions without following through with textual evidence to support the claims. R. Feinstein teaches that there are different types of human need or profit: profit that does permit the suspension of *tsaar baalei chayim* and profit that does not. He places the

biblically permitted uses of animals in the former category. In the latter category he gives a few examples. One is not permitted to accept payment from a Gentile in order to do his wishes of inflicting pain on an animal he grudges. According to R Feinstein, this is not considered a real human need. Why not? The only explanation that he gives is that it is not a daily action. It is not part of the daily routine. It is unclear from what source he brings this example or this stipulation of daily activity. Next, he turns to Shabbat 105B that speaks of a person gaining psychological benefit as well as honoring the dead by injuring an animal. The *sugya* says that this is forbidden. R. Feinstein concludes that this is forbidden because it is not a real benefit to the human and it is not a daily action. However, read in context, the Stam is not addressing this issue at all. Rather, it is forbidden it would be considered a creative act and therefore, must not be done on Shabbat.

R. Feinstein concludes on the basis of his examples that one is not always permitted to suspend the laws of *tsaar baalei chayim* for the sake of human profit. Only certain types of profit are real, and hence can act to suspend the laws of *tsaar baalei chayim*. What defines this category, however, is never made clear. Having failed to distinguish these categories in a textually supported manner, R. Feinstein is thus in a weak position as he turns back to the subject at hand. It is clear that the actions taken to raise veal calves may be considered daily action. However, what remains to be examined is whether such actions constitute real profit or just profit. The problem is, of course, is that it is not clear what defines these categories. R. Feinstein, however, states that the process of raising veal calves would not fall into the category of a real human benefit. Why not? First of all, the monetary profit made from the meat is discounted due to the

issue of its fraudulent representation. So, the logical question arises, what if the advertising was not false? What if the whiter meat did mean it was healthier and tastier? Would the process then be permitted? It is not clear whether the factors of health and taste would measure up to R. Feinstein's definition of real profit.

Though the logic of R. Feinstein's *teshuvah* is, indeed, lacking in textual support, there are some important lessons to be gleaned from it. He clearly reiterates the message that there are situations which human need supercedes the rules of *tsaar baalei chayim*. This is done by bringing to light the commonly practiced biblical permissions to slaughter and work animals, which may involve pain. Additionally, he recognizes that though man is permitted these actions from which he benefits, he is not permitted to cause pain to animals in any situation from which he benefits. The problem comes at this point: the point of defining that line. It is clear that R. Feinstein is upset by the practices of rearing veal calves. However, in attempting to extend the *issur* of *tsaar baalei chayim* he does not bring enough evidence to support his case.

Looking back at the halachic literature on the subject of the suspension of *tsaar baalei chayim* a few major points are clear. There are indeed times when *tsaar baalei chayim* does give way to other values. Through the talmudic *sugyot* it is proven that for the sake of honoring kings and learning moral discipline one may cause pain to animals. Where does the *halachah* go from here? It is unclear. The halachists attempt to create and define a broad category of "human need" (under which one could certainly argue the former two values could fall) which takes precedence over the rules of *tsaar baalei chayim*. They succeed in establishing that there is such a category, however, its boundaries are ambiguous. Sefer Hachinuch permits pain for sustenance while it limits

pain that is senseless. The Rema draws the lines around medical need and similar actions, while placing a limit on these permissions through the stricter rubric of cruelty. R. Reisher agrees with the Rema on the issue of medical need and soundly argues the dimension of financial need. However, his argument concerning the stricture of cruelty does not hold. And finally, R. Feinstein convincingly reinforces the category of human need as existing and having boundaries. He establishes, basically, that there are real needs that allow for causing pain to animals, such as sustenance. But he also places limits by stating that there are benefits that are not substantive enough to suspend *tsaar baalei chayim*. Where this line is drawn, however, is not clear. Permission to cause pain to animals. Limits upon those permissions. This is the story of the suspension of *tsaar baalei chayim* in the face of other important values.

Conclusion to Section I

Looking back into the traditional sources, it is evident that our Sages have given much weight to the treatment of animals. One should not underestimate their labeling *tsaar baalei chayim* as a toraitic *mitzvah*. This classification gives a law the potential to have a lot of power in its manifestation in reality. The problem, of course, is that the Sages gave this type of authority to many other values; other values that they also deemed necessary to live one's life in a holy manner. After reading through the *halachah*, it is certain that one single equation can not be created that would adequately describe exactly how *tsaar baalei chayim* contends in the face of this reality.

However, certain key points are made through the specific cases brought in the Talmud and later codes. First of all, the fact that both the laws of Shabbat and Yom Tov may give way to those of *tsaar baalei chayim* is, in and of itself, a strong testament to the weight of this value. The very laws that the Rabbis spent hundreds of years protecting with fences upon fences, may, in certain circumstances, be broken in order to spare an animal from pain. What does this say about the priorities of our tradition? Clearly, our teachers remembered that even in an effort to observe the laws of the day, one should not forget that his creatures still needed to be cared for properly.

While it is obvious in the text that *tsaar baalei chayim* is important enough to break certain laws, what remains quite ambiguous is the other side of the coin. That is, what exactly constitutes something important enough to break the law of *tsaar baalei chayim*? The Talmud teaches in a straightforward manner about specifics such as moral discipline and showing honor to royalty, but the later codes and responsa literature struggle to find the boundaries to the greater category of "human needs". Can humans

disregard the pain of animals whenever there is any type of need? Does financial profit gained through a process that may cause animals to suffer supercede the laws of *tsaar baalei chayim*? And finally, what about the issue of cruelty? Is there another dimension, beyond the strict definition of the *mitzvah* of *tsaar baalei chayim* that demands higher moral standards? These questions, as expounded above, have been answered in many different ways.

What is indisputable, however from the texts, is that the value of *tsaar baalei chayim*, *must* be considered in the face of the other value of “human need”. Just as the Rabbis and halachists weighed the values in specific cases, so too must this process continue in the face of today’s reality. Thus, as the discussion begins to focus on the reality of modern methods of factory farming, these issues must be the guiding posts of any Jewish analysis of the situation.

Section II

An Introduction to Factory Farming

Now that the issue of tsaar baalei chayim has been explored from the point of view of the traditional sources, this thesis turns to a reality in which this topic is quite relevant: modern practices of factory farming. Factory farming is an area in which the treatment of animals is often criticized. The purpose of this section is to provide a general overview of this industry as it operates within the United States. Note that this section does not claim to be an all-inclusive report on the topic. Rather, it is an attempt to introduce the reader to the general tone of the industry as well as to the specific problematic situations that relate to the issue of cruelty to animals. However, through the extensive use of footnoting the reader will be enabled to further explore these issues.

What is factory farming? People for the Ethical Treatment of Animals sums up the essence of this business by stating, “Simply put the factory farming system of modern agriculture strives to produce the most meat, milk, and eggs as quickly and cheaply as possible and in the smallest amount of space as possible.”¹

Farming in America, however, has not always been characterized as such. Factory farming, also known as “agri-business”, really only began to take shape in the early 20th Century. Chickens were the first animals to be raised in a manner that could be considered the beginnings of factory farming.² Before World War II, chicken farms began raising chickens for their meat all year round through the use of indoor facilities

¹ People for the Ethical Treatment of Animals (PETA), “Factsheets: Vegetarianism, Factory Farming: Mechanized Madness,” retrieved Aug. 2000, <<http://www.peta-online.org/mcmfacts/fsveg3.html>>.

² Harry R. Lewis, “America’s Debt to the Hen.” The National Geographic Magazine 51.4 April 1927: 453. American Poultry Historical Society, American Poultry History 1823-1973 ed. Josh Skinner, (Madison, WI: American Printing and Publishing, 1974) 184. Broiler Industry July 1976: 119. The Poultry Tribune, Sept. 1995: 6. As cited by Karen Davis, Prisoned Chickens Poisoned Eggs (Summertown, TN: Book Publishing Company, 1996) 15.

and vitamins A and D.³ It was also at this time that research increased about poultry rearing.⁴ During the war, the demand for chicken increased as it replaced red meat, which was a rationed commodity.⁵ In the 1940's, battery cages were invented, which would be essential to the mass production of eggs. It was also after the war that the modern veal industry began.⁶ In 1956, the United States Department of Agriculture (USDA) taught about the four food groups, two of which, that is the dairy/eggs and meat groups, relied upon and promoted the developing agri-business.⁷ During the following decade, additional systems were invented for the mass raising of pigs, cattle, and sheep.⁸

And today? The numbers speak for themselves. It is estimated that between 8-9 billion animals a year within the United States, are killed for food or fiber.^{9,10,11} Of that number, approximately 98% of the food that is produced comes from the factory farms.¹² Turning to the relevant aspect of this thesis, the question of the treatment of these animals, about 10% of animals raised on these farms die before being slaughtered due to stress, disease and injury.¹³ To treat this situation antibiotics are often used. In fact, 50% of the antibiotics produced in the US go straight into animals feed.¹⁴

³ Jim Mason and Peter Singer, Animal Factories (New York: Crown Publishers, 1980) 1.

⁴ J.H. Florea, "Education," American Poultry History, 82-83. As cited by Davis, 17.

⁵ W. O. Wilson, "Housing," American Poultry History, 218. As cited by Davis, 17.

⁶ Roberta Kalechofsky, Vegetarian Judaism (Marblehead, MA: Micah Publications, 1998) 18.

⁷ Nathaniel Altman, "Revising the 'Basic Four'." Vegetarian Times Sept./Oct. 1977: 9. As cited by Mason and Singer, 115.

⁸ Mason and Singer, 3.

⁹ Pamela Rice, 101 Reasons Why I'm a Vegetarian 4th ed. (New York: The VivaVeggie Society, 1998).

¹⁰ Nedim Buyukmihci, "Ethical and Practical Considerations for Nonhuman Animals Used for Food and Fiber," posted March 23, 1999, <<http://arrs.envirolink.org/avas/farmanima.htm>>, 8.

¹¹ Vegetarian Starter Kit (Norfolk, VA: PETA) 6.

¹² Kalechofsky, 9.

¹³ Farm Animal Reform Movement (FARM), "Animal Agriculture Claims Another Record Number of Victims," The Farm Report, Fall 1996, <<http://www.farmusa.org/links/fr95vict.htm>>.

¹⁴ Humane Farming Association (HFA), "The Truth About Factory Farming," retrieved Aug. 14, 2000, <<http://www.hfa.org/factory.html>>.

As the focus of this thesis is examining the present conditions of animal rearing through the lens of Jewish tradition, a question arises about the meat and animal products consumed by many in the Jewish population: How are animals raised that are eventually slaughtered for kosher meat or produce items that will be given a *heksher*? According to Dr. Roberta Kalechofsky, animals destined for the kosher dining table are raised in the same system as all the other factory-farmed animals. “All commercial meat whether for the kosher market or the non kosher market is raised the same way...the dairy and eggs...come from the same animals...” Dr. Kalechofsky continues on to explain that it is only at the end of their lives, at the slaughterhouse, that a distinction is made.¹⁵ The discussion that follows concerning the conditions of the factory farming system, therefore, also is relevant to the way animals that feed much of the Jewish population are treated during their lives. The consequences of this fact and the resulting issues raised will be examined in Section III.

¹⁵ Kalechofsky, 2.

Introduction to the Specific Industries

The following chapters will attempt to give the reader insight into the rearing of five different animals raised in the factory farming industry: layer chickens, broiler chickens, dairy cows, veal calves and beef cattle. These industries have been chosen for a variety of reasons including the prevalence of the consumption of the resulting products by the Jewish population, the specific cruelties that exist in those systems, and the paradigmatic models they provide for the entire industry. In each section, various aspects of the life of an animal living in the industry will be described. From breeding to food to issues of disease, there will be an attempt to cover the breadth of the lifetime of an animal within each industry.

The purpose of this section, thus, is to describe the *life* of these animals. While many studies have been conducted concerning the humane slaughtering of animals for food, this thesis will not be examining this issue. While it is deemed to be of much importance, the intent of this thesis is to emphasize the centrality of the quality of the actual life, rather than the death, of animals raised for food.

Chapter 6

Layer Chickens

Introduction to the Industry

Today, about 98% of the eggs produced in the US come out of the factory farming system.¹⁶ Whereas in 1955 an average egg producing farm had about 20,000 hens at a time,¹⁷ today there are farms that house up to 250,000.¹⁸ Each one of those hens now has the potential of laying up to 280 eggs a year,¹⁹ bringing the total eggs produced to upwards of 76 billion.²⁰

The laying industry, however, like other parts of the factory farming system, also has faults resulting from the increase in efficiency and output. It has been estimated that up to 20% of the hens in this system die due to the stresses and illnesses to which they are exposed.²¹ While this number appears to be on the high side, an examining the general aspects of a hen's life in the factory farm clarifies the truths to which the statistic points.

Living Space

The biggest complaint about the housing of laying hens today concerns the "battery cages" in which they spend most of their lives. What characterizes these cages? Not a lot of space. Estimates report that between 4-8 chickens are housed in a cage

¹⁶ The Humane Farming Association (HFA). "Eggribusiness," retrieved Jan. 12, 1998, <<http://www.salonmagazine.com/>>.

¹⁷ "How Egg Industry Changed During the Last 20 Years," Poultry Digest May, 1978: 232. As cited by Mason and Singer, 3.

¹⁸ Karen Davis, Prisoned Chickens Poisoned Eggs (Summertown, TN: Book Publishing Company, 1996).

¹⁹ Microsoft Encarta Online Encyclopedia 2000, "Poultry Farming," retrieved Nov. 2, 2000, Microsoft Corporation, <<http://encarat.msn.com>>.

²⁰ Erik Marcus, "Slaughter of the Innocents." Salon Magazine Jan. 12, 1998, <<http://www.salonmagazine.com/>>.

together, allowing each animal approximately 48 square inches of space.²² Not only does the tiny space prevent the hen from walking, standing or stretching its wings,^{23,24} the wire cages do not lend themselves to the performance of normal behaviors such as nest building, dustbathing, perching and scratching the ground.^{25,26} According to a 1991 University of California study, about 97.8% of hens in the egg industry live in such cages.²⁷

In addition to battery cages, the general atmosphere to which these animals are exposed is often criticized. Because of the vast amount of chickens in one hen house, the temperature often becomes too hot.²⁸ Furthermore, the breathing of the animals is affected by the vast amounts of manure that lies beneath them. As this manure builds up, toxic ammonia fills the air.²⁹

Breeding Process

The breeding process in the egg industry paints quite a contrasting picture to the breeding behaviors in nature. In the wild, the average hen lays somewhere between 12-24 eggs a year.³⁰ Before laying her eggs, she carefully chooses a place to create a nest

²¹ "Factory Farming," United Animal Defenders, Inc.: 3. As cited by People for the Ethical Treatment of Animals (PETA), "Factsheets: Vegetarianism, Factory Farming: Mechanized Madness," retrieved Aug. 2000, <<http://www.peta-online.org/mc/facts/fsveg3.html>>.

²² Danny M. Hooze, "Laying hen nutrition at high production, stock densities." Poultry Digest Aug. 1994: 16-20. As cited by Davis, 54.

²³ HFA, *ibid.*

²⁴ M. Baxter, "The welfare problems of laying hens in battery cages." The Veterinary Record 134 June 11, 1994: 617. As cited by Davis, 54.

²⁵ HFA, *ibid.*

²⁶ FactoryFarming.com, "Laying Hens," revised Oct. 6, 2000, vegsource.com, <<http://factoryfarming.com/>>.

²⁷ Donald Bell, The Poultry Tribune Sept. 1995: 37. As cited by Davis, 62.

²⁸ Davis, 72.

²⁹ Davis, 62.

³⁰ Clare Druce, Chicken and Egg: Who Pays the Price? (London: Green Print, 1989) 7. As cited by Davis 55.

and lay the eggs.³¹ After her chicks are hatched, they stay close to their mother for the first 4-8 weeks of life.³²

As stated above, in the current egg business hens lay up to 280 eggs a year. These eggs are laid within the battery cages and go directly from the hen's body straight onto a conveyor belt that takes them to the mechanical incubators.³³ Once the chicks are hatched, a "sexer" comes to determine the gender of the new animal.³⁴ It is at this point that one of the major cruelty issues arises in this industry. The male chicks that are hatched are not of use to this business. Why not? First of all, of course they do not have a laying capacity. Secondly, they do not have the fleshy make-up that the broiler chickens have been selectively bred to have.³⁵ Therefore, upon hatching, the male chicks need to be disposed of. This is usually done in the cheapest manner possible. The most common methods include dropping the chicks in a plastic bag to suffocate to death, grounding them alive, and drowning them.^{36,37,38} It is estimated that 250-280 million male chicks a year are killed as a result of their "uselessness" to this business.^{39,40}

Socialization

In addition to the destruction of the natural bond between mother and chick, another part of the social structure of the chicken is altered in the factory farms. The

³¹ Davis, 55.

³² Davis, 46.

³³ Davis, 56.

³⁴ Kalechofsky, 124.

³⁵ Bell, "An egg industry perspective: Ready for the 21st century?" Poultry Digest Jan. 1990: 26. As cited by Davis, 40.

³⁶ HFA, *ibid.*

³⁷ Marcus, *ibid.*

³⁸ FactoryFarming.com, *ibid.*

³⁹ Terry Evens, "International Egg Commission gathers in Stockholm." Egg Industry Sept. 1995. As cited by Davis, 40.

crowded cages do not allow the birds to perform their normal social interactions. As a result, a major problem is that the frustrated birds turn to cannibalism.⁴¹ In order to reduce losses caused by this behavior, the industry has developed a process called, “debeaking”. At 6-10 days old,⁴² up to $\frac{2}{3}$ of the top portion of a bird’s beak is removed.⁴³ This is usually done with a hot blade. As will be discussed below, this causes pain and other complications for the bird. Moreover, if the debeaking is not performed successfully the first time, it may be repeated.⁴⁴

Food and Weight Issues

Two times in a hen’s life do problems concerning her eating arise. First of all, as mentioned, the debeaking process is done to a young chick. One of the advantages of the debeaking, in addition to the social issue of cannibalism, is that it often causes a reduction in the appetite of the chick. At the end of the day, this spells a reduction in food costs to the producer.⁴⁵ Also related to debeaking, is the occurrence of mistakes due to the speed of the procedure, which may lead to actual physical problems eating. It has even been shown that starvation can result from mistakes made during debeaking.⁴⁶

“Forced molting” is another process, which affects the normal eating patterns of the hens. As the hens’ egg production decreases, this process may be used in order to induce another round of laying. Forced molting consists of starving a hen for up to 18

⁴⁰ Vegetarian Starter Kit, 8.

⁴¹ Davis, 65.

⁴² Davis, 68.

⁴³ James Craig, “Beak Trimming Effects on Beak length and Feed Usage for Growth and Egg Production.” Poultry Science 71 1992: 1830-1841. As cited by Davis, 67.

⁴⁴ Davis, 48.

⁴⁵ D.L Cunningham, “Beak Trimming Effects on Performance, Behavior and Welfare of Chickens: A Review.” Journal of Applied Poultry Research 1 1992: 129-134. As cited by Davis, 67.

⁴⁶ North and Bell, 246-251. As cited by Davis, 48.

days in order to shock her system into laying again. During these days she may lose up to 25% of her body weight. It has been reported that 5-10% of the hens that are force molted die from the process.⁴⁷ The Association of Veterinarians for Animal Rights officially opposes this procedure.⁴⁸

Physical and Behavioral Disorders

Laying hens are vulnerable to many types of physical illnesses and it is reported that they usually do not receive veterinary care.⁴⁹ From the beginning of life, they are susceptible to complications from debeaking such as the pain of the procedure,⁵⁰ blood loss and shock.⁵¹ The environment in which they live is also a cause of many diseases. The dirty air is the likely cause for a variety of immune diseases.⁵² The rising vapor of ammonia from the pile up of manure can cause eye ulcers leading to blindness.⁵³ Skin problems,⁵⁴ sore feet and even claws growing and twisting around the cage preventing a bird from moving to food and water are caused by the wire battery cages.⁵⁵ Finally, the breeding system may lead to the following problems: Fatty Liver Syndrome from an unnatural amount of egg production, egg bind from the production of eggs so early in a

⁴⁷ FactoryFarming.com, *ibid.*

⁴⁸ Rod Smith, "United Egg Producers Reviewing Animal Welfare Guidelines to Keep Egg Producers in Good Standing," FactoryFarming.com, May 1, 2000, vegsource.com, <<http://factoryfarming.com/>>.

⁴⁹ HFA, *ibid.*

⁵⁰ FactoryFarming.com, "Laying Hens."

⁵¹ Davis, 48.

⁵² Davis, 43.

⁵³ Diseases of Poultry 9th Ed., 852. As cited by Davis, 62.

⁵⁴ HFA, *ibid.*

⁵⁵ Michael Appleby, Do Hens Suffer in Battery Cages? A Review of the Scientific Evidence Commissioned by the Athene Trust (Edinburgh: Institute of Ecology and Resource Management, 1991) 7-8. As cited by Davis, 57.

hen's life that it is too big for the small animal to lay, and osteoporosis as calcium is monopolized by the production of egg shells.⁵⁶

Drug and Hormones

Hens are vaccinated upon hatching against immune diseases. Often this immunization leads to infection as the injection is given so quickly and the same needle is used for many birds.⁵⁷ Throughout its life, a hen is fed antibiotics in order to fight bacteria and increase the production of eggs.⁵⁸

Transportation

There are no laws currently governing neither the handling nor the transport of chickens.⁵⁹ The result of this oversight is often rough treatment of chickens in the process of catching them to send them to the slaughter. Because this is generally still done by human hands, the goal is to do it as quickly as possible in order to cut down on labor costs. As a result of this speed, chickens often lose body parts as they are ripped from their cages.⁶⁰

⁵⁶ FactoryFarming.com, *ibid.*

⁵⁷ Charles Wabeck, Raising Your Home Chicken Flock, Cooperative Extension Services University of Maryland System, Institute for Agriculture and Natural Resources, revised 1991-92: 10. As cited by Davis 48.

⁵⁸ Evens, *ibid.* As cited by Davis, 61.

⁵⁹ Buyukmihci, 7.

⁶⁰ Davis, 57.

Lifespan

In nature a hen lives 15-20 years.⁶¹ In the agri-business system hens *can* live up to 18 months.⁶² However, after a year of life they are considered spent and are either put through forced molting or they are slaughtered for lower quality meat items.⁶³

Legal Issues

In 1966, the US Congress passed the Animal Welfare Act. This act was meant to create higher standard of living conditions for specific warm-blooded animals. However, this law excluded, "...farm animals such as...livestock or poultry used or intended for use as food or fiber..."^{64,65} Thus, as with all farm animals, the hen is excluded from the Animal Welfare Act. However, as of this writing there are efforts being made to change the conditions of factory farmed layers. There is a bill proposed in California to forbid forced molting. The United Egg Producers is trying to lobby for increased cage space. Even McDonald's Corporation is in the process of writing animal welfare guidelines that could ultimately improve the living conditions of layers.⁶⁶

An important aspect of the legalities involved in layers is the subject of "free-range" chickens and eggs. People often choose to purchase items that carry this label, believing that these animals live free of the elements of mechanized farming. The reality, however, does not support this belief. Currently, the only requirement for a company to

⁶¹ Mason and Singer, 5.

⁶² Kalechofsky, 122.

⁶³ FactoryFarming.com, *ibid.*

⁶⁴ David Wolfson, Beyond the Law: Agri-business and the Systemic Abuse of Animals Raised for Food or Food Production (Archimedian Press; New York, 1996) 3-12. As cited by Rice, *ibid.*

⁶⁵ Animal Protection Institute (API), "Legal Protections for Companion Animals and Animals in Agriculture, entertainment, Research," revised Sept 20, 2000, <<http://www.api4animals.org>>.

⁶⁶ Smith, *ibid.*

put the USDA label “free-range” on its eggs is that the hens be kept outdoors.⁶⁷ However, there are no requirements governing the amount of space per chicken. Most chickens that live in “free-range” farms indeed have very little space.

⁶⁷ Kathleen Leddy, Food Labeling Division, Food Safety and Inspection Service, USDA, telephone interview with author, Sept. 17, 1992. As cited by Davis, 127.

Chapter 7

Broiler Chickens

An Introduction to the Industry

Between 1946-51 a contest called, “The National Chicken of Tomorrow” was held in which the aim was to produce a “super chicken”. This contest led to the broad-breasted broiler chicken most popularly consumed today.⁶⁸ The following decades witnessed an increase in chicken consumption, perhaps due to a focus on the benefits of relatively low-fat protein sources.⁶⁹ The industry that meets this American demand for chicken meat has grown 200 times in the past 60 years.⁷⁰ In 1996, 7.6 billion broilers were slaughtered in the United States.⁷¹

Living Space

In contrast to the laying hens, the majority of broiler chickens are not housed in battery cages. They are raised instead on the floor of big chicken houses. Although they do not experience the problem associated with the wire of the battery cages, the crowded conditions⁷² in the broiler house still prevent normal behavior patterns. Between 25-50,000 chickens live in a space of 40 x 400 feet. This allots about 8 square inches per animal.⁷³ Because the floor is only cleaned once or twice a year,⁷⁴ the air, like that in

⁶⁸ American Poultry History, 399-410. As cited by Davis, 85.

⁶⁹ Davis, 83.

⁷⁰ “Unions Try to Push Past Workers’ Fears to Sign Up Poultry Plans in South.” The New York Times Jan. 20, 1996. As cited by Humane Society of the United States (HSUS). “Factory Farming- Broiler Chickens,” revised Feb. 1998, <<http://www.hsus.org>>.

⁷¹ HSUS, *ibid*.

⁷² Kalechofsky, 125.

⁷³ Kalechofsky, 125.

⁷⁴ Kalechofsky, 125.

the battery hen houses is toxic.⁷⁵ In terms of lighting, this is manipulated in order to promote higher food intake,⁷⁶ which ultimately leads to a higher price for the bird.

Breeding Process

In order to produce fleshy birds, breeder broiler chickens are genetically selected for higher weight.⁷⁷ These chickens are then raised in controlled circumstances of total or semi-darkness and semi-starvation. This is because obesity, the very quality for which they are prized, can cause the onset of ovary problems.⁷⁸ These breeders are slaughtered at 45 weeks of age.⁷⁹

Food and Weight Issues

Broiler chickens are raised in a manner to produce the heaviest bird as quickly as possible. In 1935 a broiler weighed 2.8 pounds at 16 weeks of age. In contrast, in 1994 a broiler weighed 4.65 pounds at only 6½ weeks.⁸⁰ This rapid growth puts an extreme pressure on the bones of these animals as all the growth takes place upon an immature skeletal system.⁸¹

⁷⁵ Hongwei Xin, "Poultry Energetics as Influenced by Ammonia and Temperature." Paper no. 86-4045 American Society of Agricultural Engineers 1986: 1. As cited by Davis, 97.

⁷⁶ People for the Ethical Treatment of Animals (PETA), "Factsheets: Vegetarianism, Factory Farming: Mechanized Madness," <<http://www.peta-online.org/mc/facts/fsveg3.html>>.

⁷⁷ Roy Gyles, "Technological Options for Improving the Nutritional Value of Poultry Products," Designing Foods 299. As cited by Davis, 91.

⁷⁸ Davis, 92.

⁷⁹ Davis, 92.

⁸⁰ The Poultry Tribune Sept. 1995:16. As cited by Davis, 86.

⁸¹ Mack North and Donald Bell, Commercial Chicken Production Manual, 4th Ed (New York: Van Nostrand Reinhold, 1990) 315. As cited by Davis, 87.

Physical Disorders

High tissue density on immature skeletons result in leg problems among the broilers. Because of the genetic selection and the feeding conditions, it has been reported that these animals are in chronic pain from the weight upon their legs.⁸²

Dyschondroplasia, a leg disorder, is estimated to afflict 49% of these chickens.⁸³ In addition to leg problems, the obesity factor is increasingly causing broilers to fall victim to heart disease.^{84,85} Finally, the ammonia from the manure often causes sores on the feet of these animals⁸⁶ as well as respiratory problems.⁸⁷

When trying to understand the situation of these birds, it is important to know that research in this area shows that chickens *do* experience pain.⁸⁸ Furthermore, birds that have become sick in this business are not treated. Rather, wringing of the neck or hitting on the head are among the methods used to dispose of sick broilers.⁸⁹

Drugs and Hormones

In order to protect broilers from infection, their feed is medicated from the first day of life.⁹⁰

⁸² Michael J. Gentle, "Pain in Birds." Animal Welfare 1 1992: 242. As cited by Davis, 87.

⁸³ Ronald M. Leach, Jr., "Poultry industry should reconsider if bigger is better." Feedstuffs Aug. 26, 1998:10. As cited by HSUS, *ibid*.

⁸⁴ Robert H. Brown, "Researcher look to cure chicken heart disease." Feedstuffs Nov. 11, 1991:13. As cited by HSUS, *ibid*.

⁸⁵ PETA, *ibid*.

⁸⁶ Davis, 92.

⁸⁷ PETA, *ibid*.

⁸⁸ Davis, 122.

⁸⁹ Davis, 102.

⁹⁰ HSUS, *ibid*.

Transportation

As with the catching of battery hens, broilers are caught by hand, and in an effort to be as expedient as possible, they are often treated roughly.⁹¹ The cages that they are thrown into for transport place 10-12 animals together in a mere $3\frac{1}{2}$ feet of space.⁹² There is no food, water or rest provided along the way to the slaughterhouse. Furthermore, because the vibrations of the ride affect the chickens' ability to control their body temperature, they often freeze to death along the way.⁹³

Lifespan

Broilers are slaughtered between 7-9 weeks of age.^{94,95} However, approximately 5% a year die from sickness, never making it to the slaughterhouse.⁹⁶

Legal Issues

As described in the previous chapter, these animals do not have any legislation protecting their lives in the chicken houses. Furthermore, there are currently no laws that control the transportation of chickens on trucks.⁹⁷

⁹¹ Davis, 106.

⁹² Gene Bruce, "Public Health: Dirty Chicken." The Atlantic Nov. 1990: 34. As cited by Davis, 109.

⁹³ Davis, 110.

⁹⁴ Broiler Industry July 1976: 56. As cited by Davis, 85.

⁹⁵ PETA, *ibid.*

⁹⁶ "Carcass, candy bar mix may solve disposal problems, feeds bird," Mid-Atlantic Poultry Farmer Feb. 21, 1995. As cited by HSUS, *ibid.*

⁹⁷ Davis, 111.

Chapter 8

Dairy Cows

An Introduction to the Industry

At any one time there are about 10 million dairy cows in the US. Of this number, approximately half these cows are raised in factory farms.⁹⁸ On a factory farm, a dairy cow produces up to ten times more milk than she would in natural conditions.⁹⁹ Of course, this was not always the situation. In 1940 a dairy cow produced 2.3 tons of milk a year. In 1997, she produced 8.4 tons.¹⁰⁰ Under what conditions must these animals live, in order to produce this amount of milk?

Living Space

Dairy cows spend their lives in places that make it convenient for the constant milking they must undergo. This includes concrete floored pens,^{101,102} single stalls, or “dry lots”, which are plots of hard ground void of grass.¹⁰³ Hence the surface on which these animals stand is either hard floor or hard ground. These areas are also characterized by an overcrowding of many cows together. In terms of shelter, while farms in colder climates may provide protection for their cows in the winter, many cows living on dry lots are exposed to the elements.

⁹⁸ People for the Ethical Treatment of Animals (PETA), “Factsheets: Vegetarianism, Milk: A Cruel and Unhealthy Product,” retrieved Aug. 2000, <<http://www.peta.org/mc/facts/fsveg8.html>>.

⁹⁹ FactoryFarming.com, “Dairy cows,” revised Oct. 6, 2000, vegsource.com, <<http://factoryfarming.com/>>.

¹⁰⁰ USDA NASS, Agricultural Statistics 1999. As cited by Vegan Outreach, “The Transformation of Animals into Food,” <<http://www.veganoutreach.org/whyvegan/animals.html>>.

¹⁰¹ PETA, *ibid.*

¹⁰² The Fund for Animals, “Animal Agriculture Fact Sheet #1,” posted May 2, 2000, <<http://www.fund.org/library/documentViewer.asp?ID=68&table=documents>>.

Only a small portion of a cow's life, if any, is spent in the pasture. According to a 1996 survey conducted by the USDA, only 58% of farms pastured their cows for more than three months a year.¹⁰⁴ Another factor causing the restricted grazing of cows is the use of hormones to increase milk production. When cows are on these hormones, they must be monitored, and thus cannot be sent out to pasture.¹⁰⁵

Breeding Process

In order for a cow to give milk, she must first give birth. After giving birth, she produces milk for about ten months.¹⁰⁶ Hence, the breeding of cows is a priority in the dairy industry. Like a human, the gestation period for a cow is nine months. In order to produce as much milk as possible, the dairy industry has created a system that forces the cows to give birth once a year.¹⁰⁷ As few as 60 days after giving birth, she is once again impregnated.¹⁰⁸

Milk production is increased by two means. The first method is artificial insemination. In order to keep milk production up, cows are impregnated once a year.¹⁰⁹ After becoming pregnant, the cow is still milked up to three times a day for the next seven months.^{110,111} This milking takes place by machine. There have been studies that

¹⁰³ Melanie Adcock and Mary Finelli, "The Dairy Cow: America's Foster Mother," Humane Society of the United States News Winter 1995.

¹⁰⁴ National Animals Health Monitoring System, Dairy 196 Part I: Reference of 1996 Dairy Management Practices, USDA, May 1996. As cited by Dr. Jacky Turner, "Factory Farming and the Environment," Oct. 1999, <<http://www.ciwf.co.uk/envirol.htm>>.

¹⁰⁵ Humane Farming Association (HFA), "Dairy Cows," <<http://www.hfa.org/cows.html>>.

¹⁰⁶ Adcock and Finelli, *ibid.*

¹⁰⁷ FactoryFarming.com, *ibid.*

¹⁰⁸ PETA, *ibid.*

¹⁰⁹ PETA, *ibid.*

¹¹⁰ PETA, *ibid.*

¹¹¹ FactoryFarming.com, *ibid.*

suggest that these machines can cut the udders of cows¹¹² and that stray voltage has been reported to shock animals during milking.¹¹³ The constant pregnancy and lactation places a severe stress on the animal. Her body is producing 10-20 times more milk than her calf would need.¹¹⁴ The results of this strain will be discussed below.

The other means of increasing milk production is the use of Bovine Growth Hormone (BGH), which increases the lactation of the cow.¹¹⁵ Between 7-25% of US dairy cows are treated with this hormone.¹¹⁶ This hormone was approved in 1993, despite the already existent surplus in the dairy industry.^{117,118} Drug manufacturers report that BGH can increase milk production up to 20%.¹¹⁹ However, BGH has also been found to cause reproductive problems, including birth defects in the calves.¹²⁰ The side effects of BGH will be further explored below.

Socialization

According to an article in the Humane Society of the United States newsletter, dairy cows are "highly social animals." Their natural tendency is to work cooperatively with fellow cows, which even includes caring for the calf of another while she is out grazing.¹²¹ The current living conditions of crowded confinement do not facilitate such

¹¹² PETA, *ibid.*

¹¹³ Jack Anderson and Dale Van Atta, "Stray Voltage Killing US Dairy Cows." "The Washington Post" Aug. 9, 1989. As cited by PETA, *ibid.*

¹¹⁴ Animal Protection Institute (API), "The Destructive Dairy Industry," revised March 1999, <<http://www.api4animals.org/default.asp?ID=69>>.

¹¹⁵ HFA, *ibid.*

¹¹⁶ API, *ibid.*

¹¹⁷ Adcock and Finelli, *ibid.*

¹¹⁸ USDA NASS, *ibid.*

¹¹⁹ HFA, *ibid.*

¹²⁰ HFA, *ibid.*

¹²¹ Adcock and Finelli, *ibid.*

normal social behaviors.¹²² Another social issue facing these cows is the separation from their young almost immediately after birth. In nature, calves suckle from their mothers for the first 6-8 months of life. The bond between a mother and her calf is strong. In the dairy industry, however, this bond is broken by their separation.¹²³

Food and Weight Issues

The normal diet of dairy cows consists mostly of high roughage grass in order to facilitate her ruminating digestive system. However, in order to produce the amount of milk demanded by the industry, factory farmed cows are fed an unnatural diet that is heavy in grain.¹²⁴ This diet has been found to lead to a variety of digestive and metabolic disorders.^{125,126} Another factor leading to the need for such rich diets is BGH. As milk production increases, the animal must be fed a diet that can keep up with its milk output.¹²⁷

Physical Disorders

Cows feel pain. One comparison states that the cow's ability to perceive pain is parallel to that of a dog.¹²⁸ The dairy industry has created a variety of sources for the pain that a cow may experience in her life. As stated, the use of BGH has caused many health issues for the dairy cow. This includes a variety of reproductive problems such as cystic ovaries, uterus disorders, and retained placentas. BGH is also said to increase

¹²² In Defense of Animals (IDA), "Factory Farming Facts," retrieved Nov. 2000, <<http://www.idausa.org/facts/factoryfarmfacts.html>>.

¹²³ Adcock and Finelli, *ibid*.

¹²⁴ Adcock and Finelli, *ibid*.

¹²⁵ FactoryFarming.com, *ibid*.

¹²⁶ Adcock and Finelli, *ibid*.

¹²⁷ HFA, *ibid*.

stress levels, increase the size of internal organs, create intolerance to heat and increase the blood pumped through the heart.¹²⁹

Another major health problem in this industry is mastitis, an infection of the udders. It is estimated that between $\frac{1}{3}$ to $\frac{1}{2}$ of the dairy cows in the US has this painful disease due to the over-use of their udders.^{130,131} In addition to an infection of the udders, the overproduction of milk may also cause a cow to develop “Milk Fever”. This illness is caused by the rapid rate of milk removal, which depletes the calcium from the cow’s system.¹³²

Returning to the issue of food, as noted, metabolic disorders may develop from the unnatural, rich diet that is fed to these cows. Such illnesses as ketosis and laminitis fall in this category.¹³³

The space in which the dairy cow lives is another source of pain. Designed to stand on the soft soil, cows may experience problems from the concrete or the packed ground on which they stand. This can lead to back problems.¹³⁴ Finally, a new practice of “tail docking” has the potential to cause these cows much pain. This procedure of removing the tail from a cow without anesthetics is defended as a way of keeping the animal clean.^{135,136}

¹²⁸ Buyukmihci, 3.

¹²⁹ HFA, *ibid.*

¹³⁰ API, *ibid.*

¹³¹ FactoryFarming.com, *ibid.*

¹³² FactoryFarming.com, *ibid.*

¹³³ FactoryFarming.com, *ibid.*

¹³⁴ API, *ibid.*

¹³⁵ Adcock and Finelli, *ibid.*

¹³⁶ “Dairy Sense: Cracked corn and tail docking,” [Pennsylvania Farmer Magazine](http://PennsylvaniaFarmerMagazine) Feb. 1996: D20. “Tail Docking Cows on Pasture May Not Be Necessary,” [Hoard's Dairyman](http://Hoard'sDairyman) March 25, 1997. As cited by

Drugs and Hormones

As explained, BGH is the major hormone used in this industry in order to produce higher quantities of milk. About 30% of US dairy herds are treated with BGH.¹³⁷ Because of the increase in illness and disease caused by BGH, however, there has been a demand for more antibiotics for these cows. The Humane Society reports that up to 78% of cattle feed now includes medication.¹³⁸ In addition, there is a high demand for application of antibiotics to the udders of dairy cows because of the high incidence of mastitis.¹³⁹

Transportation

A major problem is with the transportation of dairy cows to be slaughtered. Often by the time they are sent to the slaughterhouse their bodies have become very weak. In the midst of transport, cows may collapse from this weakness. These animals have been named, “downers”. Most of these animals are worn out dairy cows and baby calves. In order to move them to the necessary location, downers are often tied with ropes and dragged. Other methods of moving downers are kicking and shocking the animals in an effort to get them to move themselves. Often they are just left to lie in the place they have fallen without food or veterinary care.^{140,141}

Humane Society of the United States (HSUS), “The Dairy Industry at a Glance,” retrieved Nov. 2000, <http://www.hsus.org/programs/farm/hot/mcarthur_dairy101299_a.html>.

¹³⁷ Kathleen Hart, “rBGH should be removed from market, groups tell FDA.” Food Chemical News Dec. 21, 1998:8. As cited by HSUS, *ibid*.

¹³⁸ USDA:APHIS:VS, Dairy '96 NAHMS Study: 26. As cited by HSUS, *ibid*.

¹³⁹ PETA, *ibid*.

¹⁴⁰ Adcock and Finelli, *ibid*.

¹⁴¹ Doris Day Animal League, “The Downed Animal Protection Act,” retrieved Nov. 2000, <<http://www.ddal.org/Publications/downed/html>>.

Lifespan

A cow lives for 25 years in nature. Because of the harsh toll taken on her body by the excessive pregnancies and milk production, a factory farmed dairy cow only lives for 3-4 years. After this, she is sent to the slaughterhouse to be used for some type of ground meat.¹⁴²

Legal Issues

These animals, as with all farmed animals for food, do not fall under the Animal Welfare Act. However, there are currently efforts being made to improve the legal standing of the conditions under which dairy cows are raised. Currently, the US is the only country in which it is legal to use BGH.¹⁴³ Legislation demanding labels on products that are free of BGH has been passed in some states.¹⁴⁴ In terms of transport problems, there is now legislation being considered by the Agriculture Subcommittee on Livestock in the House of Representatives that would improve the condition of "downers". H.R. 443, "Downed Animal Protection Act," would prohibit animals that are downed from being transferred, dragged, bought or sold without it first being euthanized.¹⁴⁵

¹⁴² FactoryFarming.com, *ibid.*

¹⁴³ Susan Gilbert, "rBGH Story: More Bad News for Monsanto." New York Times Jan. 19, 1999. As cited by HSUS, *ibid.*

¹⁴⁴ Adcock and Finelli, *ibid.*

¹⁴⁵ Doris Day Animal League, *ibid.*

Chapter 9

Veal Calves

An Introduction to the Industry

Veal calves are essentially marketable by-products of the dairy industry. Because the male calves born to dairy cows will not grow up to give milk, they serve no purpose to the dairy world. Hence, the veal industry developed as a way to make use of these animals.^{146,147} It is estimated that between 1-1.5 million calves are reared for veal per year.^{148,149} However, of this number, 20% may die in the process, never even making it to the slaughterhouse.¹⁵⁰ What are the possible factors that could lead to such a high mortality rate?

Living Space

Veal calves are taken from their mothers 1-3 days after birth and placed into their own stall.^{151,152,153} This stall is approximately 22 x 58 inches,^{154,155} which leaves the animal with very little spare room. Most reports state that the cage is too small for the calves to make normal movements, such as walking, turning around, stretching its legs or

¹⁴⁶ Kalechofsky, 58..

¹⁴⁷ FactoryFarming.com. "Veal Calves," posted Oct. 6, 2000, Vegsource.com, <<http://factoryfarming.com>>.

¹⁴⁹ FactoryFarming.com, *ibid*.

¹⁴⁹ Humane Society of the United States (HSUS). "Veal Fact Sheet," posted July 12, 2000, <http://www.hsus.org/programs/farm/cows/veal_facts.html>.

¹⁵⁰ Kalechofsky, 59.

¹⁵¹ Kalechofsky, 58.

¹⁵² HSUS, *ibid*.

¹⁵³ Food Safety and Inspection Service (FSIS), USDA. "Safety of Veal...from Farm to Table," posted May 1998, USDA, <<http://www.fsis.usda.gov/oa/pubs/veal.htm>>.

¹⁵⁴ The Humane Farming Association (HFA). "Misery on the Menu," retrieved Aug. 14 2000, <<http://www.hfa.org/veal.html>>.

¹⁵⁵ People for the Ethical Treatment of Animals (PETA). "Factsheets: Vegetarianism," retrieved Aug. 2000, <<http://www.peta-online.org/mc/facts/fsveg3.html>>.

lying down in its natural position.^{156,157,158} This may also be worsened by the clamping of the calves' necks to prevent such movement.^{159,160,161} The reason for these measures is to prevent the development of muscles, which takes away from the desired tenderness of the meat. It is important to note, however, that the USDA provides contradictory information, stating that the animal is indeed able to perform regular movement.¹⁶²

In addition to the lack of space, what space there is does not appear to be comfortable. No straw bedding is provided at the bottom of the cage which, as will be discussed below, often leads to leg injuries.^{163,164} In terms of excrement removal, there are differing reports. While the USDA reports that there are slots in the floor of the cage,¹⁶⁵ others state that the calf often is forced to lie in its own waste.¹⁶⁶ This position may lead to sores on the skin. Finally, the calves are mostly kept in darkness.^{167,168,169} Again, however, the USDA provides different information, stating that the area in which the calves live is naturally or artificially lit.¹⁷⁰

¹⁵⁶ HFA, "Veal Facts," retrieved Aug. 14, 2000, <<http://www.hfa.org/veal.html>>.

¹⁵⁷ FactoryFarming.com, *ibid.*

¹⁵⁸ Buyukmihci, 3.

¹⁵⁹ Kalechofsky, 58.

¹⁶⁰ FactoryFarming.com, *ibid.*

¹⁶¹ Buyukmihci, 3.

¹⁶² FSIS, *ibid.*

¹⁶³ HFA, *ibid.*

¹⁶⁴ HSUS, *ibid.*

¹⁶⁵ FSIS, *ibid.*

¹⁶⁶ Kalechofsky, 58.

¹⁶⁷ Kalechofsky, 58.

¹⁶⁸ HFA, *ibid.*

¹⁶⁹ Buyukmihci, 3.

Socialization

The Humane Society states that the calf is by nature a playful and social creature.¹⁷¹ In contrast to its nature, the calf in the veal industry has very little contact with fellow cows. As stated, it is taken from its mother a few days after birth. Furthermore, often the stall in which he is then placed is partitioned off from other calves.¹⁷²

Food and Weight Issues

The normal pattern for a calf living outside a controlled environment is to suckle from its mother about 16 times a day for the first two weeks of life, after which he will begin to eat solid food, which usually consists of high fiber roughage.¹⁷³ In contrast to the natural world, a calf in the veal industry is taken from its mother shortly after birth and thus does not suckle. Rather, he is fed twice a day from a bucket, which disrupts the normal digestive pattern.¹⁷⁴ By lapping its liquid from a bucket, the food goes to the rumen, the wrong stomach, causing the calf to have diarrhea. In addition to the process of consumption, the substance of the food in the industry is also quite different than in nature. The ideal look for veal meat is a pale whitish color. In order to obtain such a look, the animal is given an all liquid diet that is very low in iron, causing him to be near anemic. While most sources report this low-level iron induced anemia,^{175,176,177} the USDA states that the diet of these animals does indeed contain iron and that they are

¹⁷⁰ FSIS, *ibid.*

¹⁷¹ HSUS, *ibid.*

¹⁷² HSUS, *ibid.*

¹⁷³ HSUS, *ibid.*

¹⁷⁴ HSUS, *ibid.*

¹⁷⁵ Kalechofsky, 58.

¹⁷⁶ FactoryFarming.com, *ibid.*

monitored for anemia.¹⁷⁸ Another problematic aspect of the diet is the lack of roughage, which the two-stomach system relies upon, often causes improper digestion, and again, results in diarrhea.^{179,180,181} In terms of water, it is reported that calves are denied access to this in order that they fill up more on the special feed that causes them to gain weight quicker.¹⁸² Between the controlled diet and the lack of movement, veal calves are raised to a final weight of about 450 pounds.¹⁸³

Physical and Behavioral Disorders

As addressed above, one of the major problems experienced by calves is anemia. While some organizations report anemia, the Humane Society specifies that this is often a sub-clinical anemia,¹⁸⁴ which may explain how the industry can continue its current feeding practices. In addition to anemia, physical illnesses include chronic diarrhea from the liquid diet,^{185,186,187} sores from lying in its own excrement,^{188,189} leg injuries from its lack of bedding and exercise,^{190,191} and respiratory infections.¹⁹² It has been shown that these calves require five times more medication than calves with more space in which to

¹⁷⁷ HSUS, *ibid.*

¹⁷⁸ FSIS, *ibid.*

¹⁷⁹ Kalechofsky, 58.

¹⁸⁰ FactoryFarming.com, *ibid.*

¹⁸¹ HSUS, *ibid.*

¹⁸² HFA, *ibid.*

¹⁸³ FSIS, *ibid.*

¹⁸⁴ HSUS, *ibid.*

¹⁸⁵ Kalechofsky, 58.

¹⁸⁶ HFA, *ibid.*

¹⁸⁷ HSUS, *ibid.*

¹⁸⁸ Kalechofsky, 58.

¹⁸⁹ Buyukmihci, 4.

¹⁹⁰ HFA, *ibid.*

¹⁹¹ FactoryFarming.com, *ibid.*

¹⁹² HFA, *ibid.*

live.¹⁹³ It has been suggested that many illnesses could be due to the removal of the calf from his mother before he is able to get the colostrum in her milk, a natural source of antibodies.¹⁹⁴ Behavioral disorders in this industry seem to be mostly due to frustration. These include such behaviors as head tossing, shaking, kicking, as well as oral exhibitions like chewing, eating the crate boards and tongue rolling.^{195,196}

Drugs and Hormones

As stated, these calves require five times more medication than calves living in larger spaces. The USDA reports that they are given antibiotics in order to fight disease.¹⁹⁷ No hormones are administered to these animals.

Transportation

When the calf is taken from its mother after birth it is often loaded onto a truck in order to go to an auction. FactoryFarming.com reports that in this process, the calves are treated very roughly in order to move them along quickly.^{198,199} Furthermore, as in the trucking experience in general, there is the possibility of bad weather which may affect the calf's experience. During the truck ride the calves are not fed, nor are they allowed to rest.²⁰⁰

¹⁹³ FactoryFarming.com, *ibid.*

¹⁹⁴ HSUS, *ibid.*

¹⁹⁵ FactoryFarming.com, *ibid.*

¹⁹⁶ HSUS, *ibid.*

¹⁹⁷ FSIS, *ibid.*

¹⁹⁸ FactoryFarming.com, *ibid.*

¹⁹⁹ HSUS, *ibid.*

²⁰⁰ HSUS, *ibid.*

Life Span

The calf is taken to market between 14-18 weeks of age.^{201,202,203,204,205}

Legal Issues

While the veal calf, like all other factory-farmed animals is excluded from the Animal Welfare Act, there is currently a move to amend this act to include this animal. The H.R. 4415 Animal Welfare Act Amendment (Protection of Veal Calves) would abolish the tiny stalls as well as the iron and fiber deficient diet. As of this writing, this amendment has been referred to the House of Representatives Subcommittee on Livestock and Horticulture.²⁰⁶

²⁰¹ Kalechofsky, 58.

²⁰² [Factoryfarming.com](http://factoryfarming.com), *ibid.*

²⁰³ [HSUS](http://hsus.org), *ibid.*

²⁰⁴ [PETA](http://peta.org), *ibid.*

²⁰⁵ [FSIS](http://fsis.usda.gov), *ibid.*

²⁰⁶ [Animal Protection Institute](http://www.api4animals.org). "Federal Legislation," revised Sept. 2, 2000, <<http://www.api4animals.org/default.asp?ID=91#HR4415>>

Chapter 10

Beef Cattle

An Introduction to the Industry

In the United States 35 million cattle are slaughtered a year. Of this number, 80% belong to only four huge corporations.²⁰⁷ As this paper is being written, the cattle industry continues to consolidate. With an increase in technology, fewer farms can manage the vast amount of cattle raised for meat. With this consolidation and the high demand for beef, the living conditions of cattle continues to look grim.

Living Space

Most beef cattle begin their lives on the range. This can last for months to years.^{208,209} During this time they have no protection from the elements and often suffer from the harsh weather.²¹⁰ However, the major complaint with the living space of cattle surrounds the final few months of life. It is during this time that they are transferred to “feedlots” or holding pens. An average feedlot is an overcrowded, dusty, manure covered space.^{211,212} The USDA reported in 1998 that 10 million cattle were kept in feedlots with over 1000 cattle.²¹³ Because of the vast number of cattle within a feedlot,

²⁰⁷ FactoryFarming.com, “Factory Beef Production,” revised Oct. 6, 2000, vegsource.com, <<http://factoryfarming.com/beef.htm>>.

²⁰⁸ FactoryFarming.com, *ibid.*

²⁰⁹ The Fund For Animals (FFA), “Animal Agriculture Fact Sheet #1,” posted May 2, 2000, <<http://fund.org/library/documentView.asp?ID=68&table=documents>>.

²¹⁰ FactoryFarming.com, *ibid.*

²¹¹ FactoryFarming.com, *ibid.*

²¹² Buyukmihci, 5.

²¹³ Jacky Turner, “Factory Farming and the Environment,” Oct. 1999, <<http://www.ciwf.co.uk/envirl.htm>>.

each one of these huge animals only has about 14 square feet of space in which to live.²¹⁴ Furthermore, a combination of overcrowding and manure pile up leads to a high level of bacteria in the air.²¹⁵

Food and Weight Issues

The natural diet of cattle is based on high roughage grass.²¹⁶ This is what they are able to consume during their time on the range. However, in the final few months of life, the industry goal is to fatten them up as quickly as possible. Therefore, in the feedlots they are fed a high calorie substance.²¹⁷ According to some reports this consists of high bulk grains²¹⁸ while others claim this to be of concentrated protein.²¹⁹ Often the food is supplemented with fillers, which may contain items with no nutritional value such as sawdust, broiler chicken feces, or the ground remains of other industry animals.^{220,221} The animals are fattened up until they weigh as much as 1000 pounds.²²²

Physical Disorders

Similar to their dairy counterparts, beef cattle often suffer from the diet they are fed. Issues such as gastrointestinal problems and metabolic disease are caused by the feedlot diet.^{223,224} The environment in the feedlots causes other illnesses. The hard floor,

²¹⁴ Vegetarian Starter Kit, 7.

²¹⁵ FactoryFarming.com, *ibid.*

²¹⁶ FactoryFarming.com, *ibid.*

²¹⁷ FactoryFarming.com, *ibid.*

²¹⁸ Buyukmihci, 5.

²¹⁹ FFA, *ibid.*

²²⁰ PETA, "Factsheets: Vegetarianism, Factory Farming: Mechanized Madness," retrieved Aug. 2000, <<http://www.peta-online.org/mc/facts/fsveg3.html>>.

²²¹ T. A. McCaskey, "Feed Value of Broiler Litter for Stocker Cattle." " Highlights of Agricultural Research 41 no. 1, Summer 1994: 12. As cited by FFA, *ibid.*

²²² PETA, *ibid.*

²²³ FactoryFarming.com, *ibid.*

which is an unnatural surface for the hoofs of these animals, can cause lameness.²²⁵ The noxious air can bring on respiratory disease. In 1994, the USDA reported that $\frac{2}{3}$ of the deaths of feedlot cattle were caused by respiratory disease.²²⁶

The process of demarcating cattle is also a major source of pain. Cattle are either branded with a hot iron or “waddled” by cutting out a piece of the hide under its neck in order to provide it with a type of label. This process is done without the use of anesthetics. Other such pain producing procedures are castration and de-horning, also performed without anesthetics.^{227,228,229}

Drugs and Hormones

During their time in the feedlots, hormones are given to the cattle as an additional method of promoting growth.²³⁰ These hormones may include female reproductive hormones, which tend to cause the desired effect of growth.²³¹ In addition to hormones, cattle are fed antibiotics in the feedlots. About $\frac{1}{2}$ of feedlot cattle are given antibiotics in their food or water. A 1995 USDA report states that the goal of such antibiotics is to fight of infection in these enclosures.²³²

²²⁴ Australia and New Zealand Federation of Animal Societies, Cattle Feedlots 1990. As cited by Turner, *ibid.*

²²⁵ D. Griffin, L. Perino and D. Hudson, Feedlot Lameness, NebGuide G93-1159-A, Institute of Agriculture and Natural Resources, University of Nebraska- Lincoln, 1993. As cited by Turner, *ibid.*

²²⁶ USDA, Animal and Plant Health Inspection Service, Cattle Death Rates in Small Feedlots, May 1994:

2. As cited by FFA, *ibid.*

²²⁷ FFA, *ibid.*

²²⁸ PETA, *ibid.*

²²⁹ FactoryFarming.com, *ibid.*

²³⁰ FactoryFarming.com, *ibid.*

²³¹ Buyukmihci, 5.

Transportation

Beef cattle can experience many transports in their lifetime and currently no laws protect these animals during their transport on the highways.²³³ Reports state that when cattle are gathered from the range and placed into a truck they often experience confusion and fright as they are not used to confinement.²³⁴ As with the transport of other animals, food, water and veterinary care is not provided during their journey. Additionally, these animals can suffer through different temperature extremes.²³⁵ As with the dairy cows, beef cattle can often end up as “downers”, animals that during transport fall due to illness, weakness, etc.

Legal Issues

As with all other factory-farmed animal, beef cattle are not protected by the Animals Welfare Act. However, House of Representatives bill, “Downed Animal Protection Act” would also improve the situation for beef cattle in transport.²³⁶

²³² Cattle on Feed Evaluation. Part II: Feedlot Health Management Report, National Animal Health Monitoring Service, USDA, April 1995. As cited by Turner, *ibid*.

²³³ Buyukmihci, 5.

²³⁴ FactoryFarming.com, *ibid*.

²³⁵ PETA, *ibid*.

²³⁶ Doris Day Animal League, *ibid*.

Conclusion to Section II

This section has attempted to describe the realities of the factory farming industry. From the material presented, it is clear that there are many issues of animal cruelty in the manner that animals are raised for food products in the United States. The pressures of producing meat, dairy products and eggs in as fast and cheap a way as possible has resulted in many abuses. Whether it be dirty cramped living conditions, unsuitable feed, or destructive breeding practices, the lives of a significant number of animals in the agribusiness system is one in which cruelty and suffering does indeed exist.

Remember that the conditions described herein also describe the rearing of animals whose meat or produce will eventually be labeled kosher. This material, therefore, leads the reader to question the place of the Jewish law concerning prevention of suffering to animals within the modern context. How does one begin reconcile the reality of factory farming with the *mitzvah* of *tsaar baalei chayim*? It is to this issue that this thesis will now turn.

Section III

Reconciling Tradition with Reality

This section will explore the range of ways that have been put forward in order to resolve any apparent contradiction between the halachic explanation of *tsaar baalei chayim* and the realities of factory farming today. Given the information presented in Section II, what do various Jewish communities and leaders have to say about the animal-based products that Jews eat?

Before exploring the responses found on this topic, it is worth mentioning the method of research. In order to explore the answers from the traditional communities, the decision was made to look to the “experts” in Jewish meat: the *kashrut* authorities. The following letter was sent out to many *kashrut* authorities:

To Whom It May Concern:
Shalom. My name is Rayna Zylberman, and I am currently writing my master’s thesis on the subject of *tsaar baalei chayim*. I am requesting your assistance on the following point: Many voices are heard from within the Jewish community that criticize the treatment of animals by the kosher food industry on the grounds of cruelty to animals. How does your organization respond to these charges? How do you reconcile the realities of many factory farming practices with what our Sages teach us about *tsaar baalei chayim*? Your answers to these questions will greatly help my understanding of how our tradition informs our daily lives.

Phone interviews and emails were used in order to gather responses from these organizations. In addition to the *kashrut* authorities, other areas from which information was gathered were key Jewish animal rights and vegetarian groups, interviews with various rabbis and other Jewish leaders, literature from the different streams of Judaism, books and articles relating to this topic. Overall, an attempt was made to gather responses from as wide a range of sources as possible. The reality, however, as is evident

by the brevity of this section, is that there are neither many individuals nor communities that are currently responding to this question.

The discussion that follows will attempt to present the responses that were found in a systematic manner. That is, to present each answer to the dilemma of reconciling tradition with reality within the context from which that answer comes. The analytical opinions of the author will be withheld until the Conclusion section of this thesis.

In researching this topic it became obvious that the issues raised by factory farming touch on many areas of Jewish interest. These topics in addition to *tsaar baalei chayim* include questions of *halachah* such as *kashrut*, *shechitah*, and *bal tashchit* as well as areas of ecological concern such as environmentalism and world hunger. While these are all subjects of great importance, the focus of this thesis is very specific, *tsaar baalei chayim*, and this section will not attempt to venture into exploring these other issues. Where these other topics may arise, they will be mentioned and explained only as is relevant to the question at hand.

The following answers will be presented in the most orderly format possible. The spectrum of answers tend to go from those given by the most traditional communities working within a strict halachic framework to the communities that do not consider themselves bound by *halachah*. However, within many responses both paradigms are at work. That is, both communities working through *halachah*, as well as non-halachic communities, at times give similar responses. As mentioned, the sources of these answers will be noted in order to further assist in the comprehension of the logic of each response.

Chapter 11

There is No Problem or We are Ignoring the Problem

The responses given in this chapter come from the *kashrut* industry as well as a few other traditional organizations. The responses fall into two large categories. The first type of response is a denial that there is any problem with the modern methods of raising animals for food products. This, however, was the less popular response. The more common answer is one which ignores the issue altogether.

There is No Cruelty in Farming Today

Turning first to the denial of a problem in the methods of modern farming, there is only one response to report. In a phone interview with a rabbi who is a *shochet* at Star K Kosher, I was told that many of the beliefs about the raising of animals in a factory-like system are “perceptions”. “I don’t think perception is what really is.” He continued on to imply that the information presented was just perception gathered from watching some popular television show on animal rights issues. This response, however, was the only one of its kind.

The Shechting Process is Humane

The majority of respondents, on the other hand, either ignored the question that was asked or made it clear that they were choosing to ignore the issue. The first group read the question as only pertaining to the *kashrut* status of the animals. It is clear that there was a possibility of misreading a part of the letter that was worded, “Many voices are heard from within the Jewish community that criticize the treatment of animals by the

kosher food industry on the grounds of cruelty to animals. How does your organization respond to these charges?” From this section of the letter it was possible to understand the question as pertaining to the kosher status of the animal. However, the letter does go on to specifically ask, “How do you reconcile the realities of many factory farming practices with what our Sages teach us about *tsaar baalei chayim*?”

With the possibility of a misunderstanding taken into account, the focus now turns to these answers. The following excerpt from a rabbi at Organized *Kashruth* Laboratories (OK) serves as a paradigmatic response “...the slaughtering process is in fact the least painful way to kill an animal as it is done very swiftly and carefully. I suggest you research the laws of *shechitah* if you have not already.” An interesting aspect of this response is the history of attacks on the *shechitah* method of slaughtering animals from outside the Jewish community. Perhaps the respondent read the question to be another such attack and thus gave an answering defending the method of *shechitah*.

Tsaar Baalei Chayim and Kashrut are Two Separate Mitzvot

There were other angles taken that also focused the attention on the *mitzvah* of *kashrut*. While the rabbi from OK focused on the humane slaughter involved in *shechitah*, other rabbis emphasized the discreet nature of the two *mitzvot*: *kashrut* and *tsaar baalei chayim*. In the interview with Star K Kosher, the rabbi opened by stating that these are two discreet *halachot*. He went on to illustrate his point with a theoretical situation. He explained that if he saw a farmer abusing an animal, he would say that such a man should be punished. However, if he slaughters that animal and finds no blemishes,

he would still deem it kosher. The rabbi from Ohr Somayach¹ also stated that there is no connection between the treatment of animals and the later *kashrut* status of the products taken from them. This point was emphasized by describing the lax use of the word "kosher" in the modern world that may lead people to give it a wider definition than its strict halachic meaning.

Conditions are Relevant Only as They Affect Internal Damage

One other area that was touched on in terms of *kashrut* was the relevance of the treatment of the animals only in as much as it affects the condition of their internal organs. Aish Hatorah, OK, and Eretz Chemdah each raised this point. Both Aish Hatorah and Eretz Chemdah focused on the issue of white veal. The rabbi from Aish Hatorah explained, "...interestingly, veal which are raised in cramped conditions and fed chemicals are frequently found to be not kosher due to various problems and disease found in the organs of these animals..." Note that this answer did in some way acknowledge that there may be a problem in the methods of factory farming. However, it was only addressed in relation to the *mitzvah* of *kashrut*, rather than that of *tsaar baalei chayim*.

We Are Not Raising them

The final answer to highlight, that falls under the rubric of ignoring the situation is that received from OK after a follow-up letter was sent in order to clarify the intent of the original question. The follow-up letter read:

¹ Ohr Somayach, Aish Hatorah, and Eretz Chemdah are all traditional yeshivot in Jerusalem.

...What I am inquiring about is if the *halachah* is indifferent to the mistreatment of animals prior to *shechitah*. I realize that cruel treatment does not affect the *kashrut* status, however, are there other grounds upon which rabbis can, do or should express their concern?

To this letter came perhaps the most striking reponse ignoring the problem of factory farming in relation to traditional teachings about *tsaar baalei chayim*, “Cruelty to animals is forbidden by the Torah. Being that most people that raise cattle are not Jewish, the fact that they may treat their animals with cruelty is *their* problem provided that it does not affect the life-span of the animal.” It is clear from this letter that the source might be acknowledging the situation of factory farming. However, as the majority of farmers are not Jews, he sees no violation of the *halachah*.

Possible Explanations

The responses given by this community may seem hard to comprehend in light of the realities described in Section II and the *halachah* laid out a section earlier. Therefore, an attempt will now be made to put these answers into context. First of all, one must keep in mind that halachically, *kashrut* and *tsaar baalei chayim* are indeed two discreet *mitzvot*. Secondly, many of the people to whom these questions were addressed, have their attention focused on the former, the *mitzvah* of *kashrut*, and therefore may be viewing the question through such a lens. In an effort to further understand these responses, an interview was conducted with Rabbi David Rosen, an Orthodox rabbi who was the former Chief Rabbi of Ireland and is currently the president of the Jerusalem Jewish Vegetarian and Ecological Society. According to Rabbi Rosen there are three possible reasons for the ignoring of factory farming on the part of the traditional community. First of all, he states that human beings are creatures of habit. That is, the Jewish community has become accustomed to eating meat and any attacks upon that

system is viewed as an attack upon that habit. The second explanation offered is in reference to the economics of the meat industry. The factory farming system is a huge business dominating meat, dairy and egg production in the US. To *shecht* meat that comes from any other source would be a very expensive shift for the Jewish community. The final reason that Rabbi Rosen presented is connected to the issue of rabbinic authority. He explained that to admit that there is a contradiction between *halachah* and the method of raising animals today would be traumatic for the Orthodox world. Much of the authority for Orthodox *smicha* rests upon knowledge of the laws of *shechitah*. Any issue that may be seen as an attack on this subject, therefore, could be perceived as an attack on the total authority of the Orthodox rabbinate.

Chapter 12

Animals May Not Be Raised Under Factory Farming Conditions

Turning to those respondents that acknowledged a problem between the *halachah* of *tsaar baalei chayim* and the realities of factory farming, the first response is one of demanding different conditions. That is, there is recognition that the method of farming today is in violation of *tsaar baalei chayim*, and therefore Jews should not support this industry. Some of these respondents then go further and state that Jews should actively seek out alternative options to purchase the same products from organizations that do not violate this *mitzvah*. This solution was suggested by members across the spectrum of Jewish practice.

Jews Should Demand Changes Within the Current System

Beginning with the strictly halachic community, there was the response of the previously mentioned organization Ohr Somayach. While the rabbi tended to focus on the *kashrut* status of white veal, one of his comments is definitely relevant to this section, "...It is clearly impermissible to keep animals in inhumane conditions. It would be wonderful if Jewish consumers, who are aware of this prohibition, would demand that companies treat animals in the most humane way..." According to this rabbi, factory farming conditions do indeed violate a toraitic *mitzvah* and Jews should not support this. While he does not expand upon his suggestion, it is an important statement that he makes: Inhumane treatment of animals is against the traditional law and Jews should demand a change.

Boycott Specific Industries

Moving towards the middle of the spectrum, there was an important response given by Rabbi David Golinkin, the current dean of the rabbinical school of the Masorti Movement in Israel. Writing about the issue of the raising of veal, Rabbi Golinkin states, "...one can not divorce the moment of slaughter from the way in which the animal is treated before slaughter..."² Drawing on the *teshuvah* of Rabbi Feinstein, as presented in Section III, Rabbi Golinkin concludes that Jews cannot, in good conscience support the veal industry. He states that even though the purchaser of the meat has not himself inflicted the pain upon the animal, the principal of *ain machzikin biyedei ovrei averrah*, the rule that one may not aid and abet a transgressor, comes into play. He encourages the Jewish community to join the National Veal Boycott started by the Humane Farming Association in the US. Furthermore, the *pate de foie gras*, goose liver industry is also guilty of treating animals inhumanely and should not be supported. Hence, whereas the rabbi from Ohr Somayach suggested calling for a change in the industry itself, Rabbi Golinkin stated that these industries should be boycotted. An interesting aspect of Rabbi Golinkin's article came to the fore in a later phone interview. The question arose as to why he limited this principal of boycotting to such specific industries. That is, why does he not reach the same conclusion for the other factory farmed products? His answer was honest and simple. He said that he has not investigated the realities of other industries because he is afraid that he will find similar conditions and thus will have to draw similar conclusions.

² David Golinkin, "Is it permissible for Jews to purchase and eat veal? Is it permissible for Jews to raise veal calves?" Moment Feb. 1993: 26-27.

Support Industries with Humane Rearing Practices

The above respondents call for a boycott of these abusive industries because they violate *tsaar baalei chayim*. In addition to Rabbi Golinkin there were others who gave this answer and yet they went one step further. Not only should Jews remove their support from the major agri-businesses, they should lend it fully to those organizations that are providing similar products without abusing their animals. In a response by the Conference of Liberal and Progressive Rabbis of Britain it was stated that Jews should not support the industries of factory-farmed veal and chicken.³ Furthermore, they should go out of their way to purchase free-range products as substitutes for battery eggs, as well as chicken and veal. As explained in Section II, however, the definition of “free-range” in the US does not necessarily preclude the possibility of abusive rearing practices.

In addition to the suggestion that one should purchase free-range products, others suggest that Jews support industries that provide *kosher* free-range products. However, according to Rabbi Yonassan Gershom, a modern chassidic rebbe, these are practically non-existent.⁴ In trying to corroborate this statement, indeed very little information about kosher free-range products was found. While there are many organizations that sell kosher organic items that are not animal products, the option of purchasing animal products raised under humane conditions and then declared kosher seems to be very limited. This having been stated, there is one organization that operates out of Great Britain that appears to be living up to this description. Organic Kosher Foods sells kosher chicken meat that has been reared under free-range and organic conditions.

³ Aubrey Rose, ed. Judaism and Ecology (London: Cassell Publishers Limited 1992) 64.

According to its website,⁵ these animals have plenty of space in which to live and are antibiotic/hormone free. Because this organization operates out of Great Britain, the standards for free-range and organic may be different than the US. However, in an explanation of its products the company states that “free-range” only guarantees that the animals have access to the outside, while “organic” insists that the living space of the animal is not crowded.

⁴ Richard Schwartz, “Questions and Answers,” Judaism and Animal Rights ed. Roberta Kalechofsky, (Marblehead, MA: Micah Publications, 1992) 237.

⁵ See < <http://www.organic-kosher.co.uk/> >

Chapter 13

Change What We Eat

The final group of answers to the present dilemma agrees with those described in Chapter 12 that current factory farming practices are not consistent with the *mitzvah* of *tsaar baalei chayim*. However, in contrast to that group, the respondents that will be described below do not look towards continuing the practice of meat/dairy/egg consumption under improved conditions. Rather, this final group holds that the current situation calls for a more drastic decision: Jews should no longer consume these products at all. Some call it vegetarianism. Others place it under the larger rubric of redefining *kashrut*. However, the link between these various perspectives is the idea that abandoning these products completely is ultimately the ideal solution to the problem of factory farming.

A critical aspect of this section that was mentioned in the introduction must at this point be expanded upon. The solution of vegetarianism and related ideas is often brought to the fore as an answer to a multitude of questions. That is, those proponents described below often call for vegetarianism, not *only* because of the issue of *tsaar baalei chayim* and factory farming. Rather, they make their case for vegetarianism based on many environmental, health, and ecological issues that are each confronted by the teachings of Jewish tradition, which also happens to include the topic of this thesis. Hence, as with the previous ideas described, this larger context must be kept in mind in order to fully grasp the place from which the following solutions evolve.

Vegetarianism: Are Jews Obligated to Eat Meat?

Before explaining the theory of vegetarianism, an important question must be posed: Are Jews *allowed* to give up eating meat? This question comes out of the Jewish tradition that meat is customarily eaten at times of celebration such as Shabbat and Yom Tovim. Hence, the subject arises as to the nature of meat eating within Judaism. Is it a commandment to eat meat? Is it a commandment to eat meat at specific times? Or is it merely a *minhag*, a custom to consume meat?

According to Rabbi David Bleich, the general concept of vegetarianism is not rejected by the Jewish tradition.⁶ However, it appears from his summary of this topic, that there is debate as to whether it is considered within the norms of the community to abstain from meat consumption on a Yom Tov. He writes, “Regardless of whether or not there exists a normative obligation to eat meat on Yom Tov, it is certain that the Sages encouraged and urged such practice.” However, in the context of this thesis, the important aspect of this debate is whether or not it is considered an *obligation* to consume meat. It appears from many summaries of the *halachah* on this issue that consumption of meat is *not* considered an obligation. The explanations, which go beyond the focus of this thesis, vary. Some focus on the obligation to eat meat as only existing when the Temple stood in Jerusalem.⁷ Others focus on meat eating being only a *permitted* action.⁸ And yet others defend the choice to abstain from eating meat on the basis of famous

⁶ J. David Bleich, Contemporary Halachic Problems (NY: KTAV Publishing House, 1989) 237-249.

⁷ Psachim 109A. As cited by Schwartz, 222.

⁸ Kerem Shlomo Yoreh Deah, 1; Yakehl Shlomo, Orach Chayim 529 (2); Reshit Chochman 129b. As cited by Rabbi David Rosen, “Vegetarianism: An Orthodox Jewish Perspective,” ed. Roberta Kalechofsky Rabbis and Vegetarianism: An Evolving Tradition (Marblehead, MA: Micah Publications, 1995) 57.

thinkers in Jewish history that lived or supported such a vegetarian lifestyle.⁹ However, the point to be made here is that meat eating (apart from the issue of Yom Tov practice) may hold the position of a strong *minhag* within the community, but does not seem to be considered an obligation.

Vegetarianism: Supporters

Turning to the call for vegetarianism as a method of reconciling reality with tradition, there is a wide range of groups that support this course of action. Perhaps a newsletter that was sent out to rabbis throughout the US calling for a vegetarian diet best represents this spectrum.¹⁰ It states, “While Judaism forbids *tsaar baalei chayim*...most farm animals, including those raised for kosher consumers, are raised on factory farms...we believe that committed Jews should sharply reduce or eliminate their consumption of animal products...” This newsletter was written by the Jewish Vegetarians of North America. However, rabbis supported it across the denominational continuum. In order to expound upon this continuum, the focus will now turn to the support that some of these streams of Judaism gives to vegetarianism.

Within the framework of Orthodox Judaism, the author could not find any major Orthodox organization officially calling for a vegetarian lifestyle. However, there is at least one individual within the Orthodox world who does support this answer. In an interview with Rabbi David Rosen, he explained his reasons for calling upon Jews to become vegetarians. He believes that the way that meat products are produced today

⁹ Examples include Isaac Arama, Joseph Albo, and Abraham Isaac Kook. As cited by Elijah Judah Schochet, Animal Life in Jewish Tradition: Attitudes and Relationships (NY: KTAV Publishing House, 1984) 288-296.

renders them “halachically unacceptable”. Invoking the principal of *mitzvah habaah b’averah*, a *mitzvah* done by illegitimate means, Rabbi Rosen explained that if meat eating were an obligation, the conditions of factory farming violate *tsaar baalei chayim* and thus render the meat produced therein as unacceptable.¹¹ All the more so, he concludes, is that produce unacceptable, considering the fact meat consumption is not a *mitzvah*. Furthermore, consuming meat raised under such conditions would be *chillul hashem*, a desecration of Gd’s name. Hence, according to Rabbi Rosen, Jews must choose, “an ethical vegetarian way of life...”

Turning to the Conservative Movement, it appears that no official movement statement has been made addressing the issues of factory farming. However, in a recent *teshuvah* the Committee on Law and Standards did discuss the issue of the pain that animals may experience during the shechting process as a result of the shackling and hoisting method. While this thesis is not focused on this topic which has already been thoroughly explored in the Jewish community, this *teshuvah* does have significance and will be discussed in the Conclusion.

Turning to the Reform Movement, in the 1979 publication Gates of Mitzvah, an article discussing *kashrut* brings up the option of vegetarianism.¹² Citing the *mitzvah* of *tsaar baalei chayim* the article states, “...Or one might opt to...adopt some form of vegetarianism so as to avoid the necessity of taking a life. (This would be in consonance with the principle of *tsaar baalei chayim*-prevention of pain or cruelty to animals)...” It is clear from this passage that the option of vegetarianism is not being presented as a

¹⁰ Richard Schwartz, opening letter, Jewish Vegetarian Newsletter (Federalsburg, Maryland: Jewish Vegetarians of North America, Summer/Fall 1998) 2-3.

¹¹ See also Rosen, 53- 58.

¹² Simeon Maslin, ed. Gates of Mitzvah (NY: Central Conference of American Rabbis, 1979) 130-133.

resolution to farming practices, rather, the authors deem the very taking of the lives of animals as violating the principle of *tsaar baalei chayim*. This, however, overlooks the subject at hand.

It is only recently that the issue of factory farming has truly come to the fore in the Reform Movement. In the upcoming June 2001 convention of the Central Conference of American Rabbis (CCAR) there will be a proposal brought by the CCAR Committee on the Environment which will address this issue. Amongst the reasons cited calling for a switch to vegetarianism, the current form of the proposed resolution states, "Judaism emphasizes compassion for animals, but animals are raised for food today under cruel conditions, confined cells, denied fresh air, exercise, and any emotional stimulation, and fed and injected with chemicals and hormones..." In light of factory farming and other ecological issues, the document then continues on to make its suggestions. "We respectfully resolve that the CCAR: Affirm the importance of vegetarian and health conscious diets as a Jewish value...encourage Jewish families to celebrate their *simchas* with vegetarian meals...call upon our synagogues and the UAHC to reduce meat and meat products at communal functions."¹³ This resolution will be serving as a major session at the upcoming conference.

Redefining *Kashrut*

Finally, there are individuals and groups that are taking the idea of vegetarianism even further. They are looking back to the ancient idea of *kashrut* and attempting to probe the original intent of the concept. Based upon this intent they are then redefining

what this should mean for Jewish communities. The original proponent of this solution was Rabbi Zalman Schachter Shalomi, a founder and spiritual leader of Renewal Judaism.¹⁴ In the late 1970's, Rabbi Schachter –Shalomi coined the term “eco-*kashrut*”. Those who have developed this idea find their source of authority within the spirit of the traditional laws of *kashrut*. Various interpretations of the spirit of the law upon which eco-*kashrut* is based include: *kashrut* as a reminder to Jews to sanctify all consumption;¹⁵ *kashrut* as reminder to Jews of a reverence for all life;¹⁶ and *kashrut* as a means of assuring that everything consumed by humans was considered “fit” or “proper” in the widest sense.¹⁷ It is clear that the concept of eco-*kashrut* goes beyond examination merely of the food consumed by Jews. That is, eco-*kashrut* attempts to extend the above values of *kashrut* into all consumable products.

Note that according to this perspective the term “kosher” must have a wider definition than that of the traditional rabbinic understanding. That is, “kosher” must be expanded to take into account other Jewish values.¹⁸ Such values include *bal tashchit*, the prohibition against wanton destruction, *shmirat haguf*, the commandment to protect one's health, *shmitah* the commandment to let the earth lie fallow every seven years, as well as *tsaar baalei chayim*. Thus, this particular answer to the dilemma under discussion is located beyond the traditional bounds of *halachah*. Traditionally, *kashrut* does not rest upon these other values. However, in the rubric of eco-*kashrut*, it does.

¹³ Taken from the current draft of “Resolution on Judaism, the Environment and Dietary Health.” Information also gathered via phone interview with Rabbi Barry Schwartz, a leading member of the CCAR Committee on the Environment.

¹⁴ Arthur Waskow, *Down to Earth Judaism* (NY: William Morrow and Company, 1995) 117.

¹⁵ Stewart Vile Tahi, “Guidelines for an eco-kosher kitchen,” *Sh'ma* March 15, 1996: 4-6

¹⁶ Schwartz, “Questions and Answers,” 229.

¹⁷ Rami Shapiro, *Minyan* (NY: Bell Tower, 1997) 145.

¹⁸ Waskow, 127.

As mentioned above, the concept presented here is not only meant to answer the problem of factory farming. Rather, the intent of *eco-kashrut* is to reconcile a perceived contradiction between the teachings of tradition and the *many* ills of contemporary society. In his book Down to Earth Judaism, Rabbi Arthur Waskow explains the idea of *eco-kashrut* in reference to many of these problems. How does *tsaar baalei chayim* come into play within this theory? Rabbi Waskow explains that *tsaar baalei chayim* renders the produce from factory farming as prohibited.¹⁹ Therefore, in addition to all the other reasons, the principal of *tsaar baalei chayim* calls upon Jews to slowly reduce their intake of meat products, moving gradually in a direction towards pure vegetarianism.²⁰ That is, to recognize the inherent cruelty involved in factory farming and to take small steps towards eliminating these products from their diet.

There are many thinkers who support the idea of redefining *kashrut*. Conservative Rabbi Arthur Lavinsky, commenting on the conditions on farms today, states that, "...when animals are treated inhumanely, the meat from those animals should not be deemed kosher under any circumstances."²¹ In Roberta Kalechofsky's anthology Rabbis and Vegetarianism, many rabbis also support this notion. Both Rabbi David Bursin and Rabbi Bonnie Koppel cite the current system of factory farming as calling for a renewed look at what foods are being labeled kosher.^{22,23} Conservative Rabbi Samuel Weintraub supports the idea of widening the meaning of *kashrut* so that it responds to the concerns of the modern world. He suggests that classes be offered teaching Jews how to

¹⁹ Waskow, 121.

²⁰ Shapiro, 149.

²¹ Arthur Lavinsky, "When Kosher Isn't Enough," JTS Magazine Winter 2000.

²² Rabbi David Brusin "Eating Meat May be Contrary to Judaism," "Rabbis and Vegetarianism: An Evolving Tradition", ed. Roberta Kalechofsky (Marblehead, MA: Micah Publications) 8.

²³ Rabbi Bonnie Koppel, "Vegetarianism," "Rabbis and Vegetarianism: An Evolving Tradition", ed. Roberta Kalechofsky (Marblehead, MA: Micah Publications) 38.

find new meaning in *kashrut*. Furthermore, he proposes a ladder of *kashrut* practice that begins with the biblical laws of *kashrut* and moves the observer slowly towards complete vegetarianism.²⁴

²⁴ Samuel Weintraub, "The Spiritual Ecology of *Kashrut*," Reconstructionist Winter 1991/1992: 12-14.

Conclusion to Section III

The mere brevity of this section speaks to the essence of the answers to the current dilemma of reconciling traditional teachings of *tsaar baalei chayim* and factory farming. This is not an issue upon which many communities are currently focusing their attentions. At this juncture, however, a point of clarification must be made. There *are* indeed many people and organizations in existence addressing the cruelties involved in modern agri-business practice. However, the intent of this thesis is not to criticize the industry. Rather, with feet firmly grounded in the teachings of tradition the intent is to examine the suitability of its products from the perspective of *halachah*. Hence, it is answers from this perspective, that the conclusion can be drawn that there are very few voices answering the question at hand.

Chapter 11 dealt with communities grounded in the *halachah*. However, the answers in general did not address the question posed. The *halachah* upon which they tend to focus is that of *kashrut*. On the other hand, those respondents discussed in Chapters 12 and 13 do indeed look at the *mitzvah* of *tsaar baalei chayim* and all seem to agree that the practices of factory farms violate this *mitzvah*. Whether it be a limited condemnation such as merely looking at the veal industry or a full blown rejection of the entire system, these voices name the practices as abuse in the eyes of Jewish tradition. Out of these various observations then come the alternative choices: change the system, boycott the system, or stop eating these products.

How well do these solutions answer the essential question at hand? As this thesis turns to its concluding section, this question will be examined in the face of the previous

two sections. Furthermore, the author will present her own opinion based upon Section I, II, and III.

Conclusion of Thesis

Abuse Exists

The starting place for this conclusion must be on the factory farms. It is evident from the information presented in Section II that many of the circumstances under which animals are raised in modern agri-business can be accurately described as involving cruelty. While it is acknowledged that the information presented therein is not all encompassing and does indeed make generalizations, the evidence of cruelty in each of the industries points to this overall conclusion: The relatively carefree life on “old – Macdonald’s farm” has given way to dollar-driven mega farms in which the animals’ quality of life is suffering enormously.

Tsaar Baalei Chayim is Broken

Furthermore, the exploration of the halachic literature on the *mitzvah* of *tsaar baalei chayim* makes it clear that the abuses that do exist on the factory farms today are in violation of the *mitzvah* to prevent suffering to animals. Looking at this toraitic *mitzvah* as it stands alone, the living conditions of animals raised for meat, dairy and egg products, clearly do *not* live up to the standards described within the talmudic literature.

Does Tradition Permit the Violation of Tsaar Baalei Chayim for the Sake of Raising Animals Today?

However, the *mitzvah* of *tsaar baalei chayim* does not stand-alone. As described in Section I, it is in constant tension with other values or mitzvot, which are important in the eyes of tradition. At times *tsaar baalei chayim* takes precedence over these values.

However, as pointed out in the Talmud and later texts, there are certainly times that tradition teaches that *tsaar baalei chayim* is superceded by these other values. The question then is what category of values does tradition permit to supercede *tsaar baalei chayim*. More specifically, does the system of factory farming fall under this category?

As discussed in Section I, the cornerstone text upon which this subject is based is the comment of the Rema on Even Haezer 5:14. In this statement he makes it clear that there are certain human needs for which the laws governing *tsaar baalei chayim* can be set aside. However, unfortunately neither his statement nor the later commentators on this text make the parameters of this category clear. Some, like the Rema, place human medical needs in this category. Others see this as a wider category, which includes financial needs. The point to take away from this, however, is that the category of human need remains a debated subject in tradition.

Turning to the issue at hand, one must ask how the consumption of products from the factory farming system relates to “human need”? That is, can the consumption from and support of this industry somehow be defended because it constitutes a type of need? In order to answer these questions, the actual nature of eating these products must be confronted. The most relevant Jewish texts addressing this issue, are those referred to in Section III, concerning the nature of the obligation in connection with meat eating. It is concluded there that the consumption of meat on a daily basis (that is, excluding the subject of Yom Tov) is *minhag*, rather than a *mitzvah*. It is from this perspective that the discussion will investigate question of this being a human need.

In Jewish law, a *minhag* has the potential to carry legal weight. That is to say, that even though law may not obligate meat eating, it may be such a strong *minhag*, that

it can have the force of law. In what ways may a *minhag* pull its weight in Jewish law? First of all, there is the concept of *minhag mevatel halachah*, a *minhag* overriding the law. This can only happen in the area of civil law. Furthermore, there are certain authorities that claim that *minhag* can only override law by prohibiting something that was permitted by law.¹ In terms of *tsaar baalei chayim*, which is already a prohibition, it would seem inapplicable. That is, if the prevention of cruelty to animals is deemed *halachah* and the consumption of meat deemed a *minhag*, the *minhag* could only prohibit cruelty to animals. However, the law of *tsaar baalei chayim* itself is already such a prohibition. Therefore, in this case, the *minhag* of consuming meat can not override the law of *tsaar baalei chayim*.

While the above discussion makes it clear that a *minhag* can have the power to overtake law, tradition also provides for ways to limit the power of *minhag*. There are three examples of categories that provide the doing away of a particular custom: unreasonable customs, bad customs, and unjust customs. An example of an unreasonable custom is not having a woman work on Motzei Shabbat as it places financial burdens on a family. As this is deemed to place unreasonable hardship upon a community, it was revoked. A custom that is simply labeled bad can also be revoked by the local scholars. The final category is one that labels the practice of a *minhag* as contrary to the fundamental Jewish values of equity and justice. One example of such a practice is a tax law that does not distinguish between the wealthy and the indigent. In describing this category, the Encyclopedia Judaica states that, "...some way must be found for anchoring it within the general spirit of *halachah*."² Reconciling the spirit of

¹ Menachem Elon, "*Minhag*," Encyclopedia Judaica, 1972, vol. 12, 3-26.

² Elon, *ibid*.

halachah with the justice of the *minhag* of meat consumption today which is the question most relevant to the subject at hand. Is the *minhag* of meat eating amongst Jews, contrary to the spirit of *halachah* given the conditions in which these animals are reared? Given that the *halachah* itself teaches that it is a toraitic *mitzvah* to prevent suffering to animals, it appears that this *minhag* may indeed be contrary to the spirit of the law.

Thus, it appears that the *minhag* of meat consumption does not in and of itself constitute need, if this is defined by the measure of halachic obligation. It does not have the power to override the prohibitionary law against *tsaar baalei chayim*. Furthermore, the *minhag* itself may, in light of current farming practices fall under the category of one that should be revoked due to the unjust means by which it is achieved. While these statements seem valid within this discussion, it must be noted that this argument is based on the measurement of “human need” by the category of halachic obligation. As stated above, there is not one agreed upon definition of “human need” by traditional sources. Hence, all conclusions must be considered within the assumptions made.

Another aspect of the comment of the Rema in the same passage also bears weight on whether or not the laws of *tsaar baalei chayim* may be broken in the situation of factory farming. This is his final statement, “And in any case we refrain from this (from plucking feathers from live geese) because of cruelty”. What is cruelty? As presented in Section I, it appears that cruelty represents a wider category of behavior than the laws of *tsaar baalei chayim*. That is, even in areas where the rules of *tsaar baalei chayim* may be set-aside for the “human needs”, the wider ethical rules against behaving in a cruel fashion may prohibit certain behavior. In his responsum on the raising of veal calves, Rabbi Moshe Feinstein states that cruelty merely for the sake of human benefit is

prohibited. Therefore, the extra dimension of cruelty, beyond the strict law of *tsaar baalei chayim*, also states that the laws of *tsaar baalei chayim* may not be broken in order to consume the products raised on modern farms. Even if the *minhag* of meat consumption was considered a human need, it may be concluded that the extra fence of “cruelty” would prevent its practice under the current circumstance.

Finally, the question of the interplay of *tsaar baalei chayim* and the *minhag* of meat consumption can also draw answers from similar questions that have been asked about the process of *shechitah*. The first aspect of *shechitah* that must be mentioned is the common defense of this manner of slaughtering animals as one that prevents pain to animals. In a famous series of experiments done in 1961 by the Bar Ilan University, it was deemed that the pain experienced by animals during *shechitah* process was very minimal.³ Additionally, many *kashrut* authorities that were interviewed for Section III defended their industry on these very grounds. However, what is relevant in these statements, is not whether or not the *shechitah* method *is* the least painful method of slaughtering an animal. Rather, it is the fact that the lack of pain caused to the animal is invoked as an important defense of the process. If this is an important value of meat consumption concerning the slaughtering of animals, is it a far jump in logic to assume that it would also be important in the earlier stages of the processes of raising these animals?

Furthermore, the pain of an animal during the process of *shechitah* has been raised as a significant issue specifically in reference to shackling and hoisting. Shackling and hoisting refers to the process of chaining the hind leg(s) of an animal and lifting it in

³ I. M. Levinger, “Physiological and General Medical Aspects of Shechita,” *Shechita*, ed. Michael L and Eli Munk (Brooklyn, NY: Institute for Advanced Jewish Scholarship, 1976) 198.

to the air in order to kill it. The method of shackling and hoisting came about as a result of the 1906 USDA law requiring animals be off the ground during the slaughtering process for hygienic reasons.⁴ In response to critics claim that hoisting a heavy animal by a leg caused it pain, the 1958 Humane Slaughter Law required that animals be stunned, causing them to go unconscious, before being shackled and hoisted. However, for religious purposes the process of shechting an animal was exempt from this law, as proper *shechitah* requires an animal be fully conscious upon slaughter.⁵ Recently, this pain caused to animals shackled and hoisted has come under criticism within the Jewish community itself. The Union of Orthodox Jewish Congregations of America (OU) as well as the Joint Advisory Committee of Synagogue Council recommend replacing the painful process of shackling and hoisting with a restraining pen, allowing the animal to be raised off the ground and yet not be in pain. The effects of this recommendation have been far reaching. In 1989 it was approximated that 80-90% of kosher cattle were placed in restraining pens as opposed to shackled and hoisted.⁶

A significant *teshuvah* in this regard was passed by the Conservative Movement's Committee on Law and Standards as of November 2000. The question was posed as to whether the practice of shackling and hoisting during *shechitah* violates the principal of *tsaar baalei chayim*. In response, the authors wrote that this process does indeed violate this principal. The conclusion of the *teshuvah* states, "Now that kosher humane slaughter using upright pens is both possible and widespread, we find shackling and

⁴ Richard Schwartz, *Judaism and Animal Issues*, (Marblehead, MA: Micah Publications, 1993) 16.

⁵ Temple Grandin, "Humanitarian Aspects of *Shechitah* in the United States," *Judaism and Animal Rights*, ed. Roberta Kalechofsky (Marblehead, MA: Micah Publications, 1992) 92-93.

⁶ Morris Laub, *Why the Fuss Over Humane Slaughter Legislation*, New York, Joint Advisory Council of the Synagogue Council of America, 1969. Letter of Rabbi Menachem Genack, Rabbinic Coordinator, Union of Orthodox Jewish Congregations of America, NY, NY to Edward Duvon, San Francisco, CA, Oct. 20, 1983. As cited by Grandin, 93.

hoisting to be a violation of Jewish laws forbidding cruelty to animals (*tsaar baalei chayim*)..."⁷

Again, it appears that there is the invocation of the principle of *tsaar baalei chayim* involved here. That is, within the process of producing meat for Jewish consumption the value of preventing pain to animals has been deemed important enough to change the system of slaughter. The question of this section, whether or not one can set aside the law of *tsaar baalei chayim* in the specific situation of modern agri-business, seems to be answered in the negative by the changes made to the slaughter process. But what distinguishes these last five minutes of the animals' lives from the first two years? It seems logical from this trend of consideration for the suffering of animals in shechting, to extrapolate it to include the living conditions that proceed this process.

Analysis of Suggested Answers in Section III

How well do the responses presented in Section III answer the current dilemma of factory farming in the face of traditional teachings about *tsaar baalei chayim*? With the above discussion in mind, the focus will now turn towards an analytical look at these answers. The first answer presented was that no abuse actually exists with in the factory farming industry. With the information gathered and presented in Section II in this thesis, it is clear that this is a false statement. While there may be institutions that choose to distort or exaggerate the figures for their own purposes, the information presented in Section I was gathered from a variety of sources. It is agreed that each description presented therein may not be true for each and every single farm in the business. However, it is absolutely clear that the majority of animals reared in the modern farm

⁷ Elliot Dorf and Joel Roth, Committee on Jewish Law and Standards, Nov. 2000.

system do come into contact with abusive conditions at various points in their lifetimes. Thus, this is not a satisfying answer to the dilemma. The next major answer to the issue was one that said that there may be a problem out there but it is not *our* problem. The majority of the people raising animals in the factory farms are not Jews. The problem with this answer is that even if Jews are not the ones breaking the laws of *tsaar baalei chayim*, they are supporting an industry that does. This goes against the concept of *ain machzikin biyedei ovrei averah*, the prohibition against aiding and abetting a transgressor.

There are similar such problems with the suggestion of boycotting the industries. While there is the possibility of having a slight effect due to the removal of their finances from factory farming, the magnitude of agri-business is probably too large to feel any loss. Both of these latter answers acknowledge that there may be a contradiction between the current practice of factory farming and the laws of *tsaar baalei chayim*. One says that we are not doing the abuse. The other says that we should not support this abuse. The problem is that within there is a passiveness that allows for the knowing continuation of the violation of the laws of *tsaar baalei chayim*.

The concepts of vegetarianism and/or eco-*kashrut* certainly acknowledge and answer the issue of the abuse that currently pervades the farming industry. However, like a simple boycott of these industries, vegetarianism is also a way of standing by as the abuse continues to exist. Furthermore, and more specifically to the goal of this thesis, these answers do not necessarily flow from the strict question of what the tradition demands of reality. That is, the laws concerning *tsaar baalei chayim* do not demand a vegetarian lifestyle. Rather, they demand the proper treatment of animals while they are alive. According to the discussion above, these laws can not be superceded by any

apparent need to consume these products. It is, however, a jump to say that the consumption of these products must be cease. Still, many in non-halachic movements have chosen to make radical breaks with traditional teachings in other spheres of Jewish life, when it appeared that circumstances demanded it. Maybe this is the situation with the concept of *eco-kashrut*. It is clear that this concept also takes into account many of the issues of the modern ecological crises and the sum of the crises may be greater than the parts. Hence, this may result in the call for a radical shift in practice. However, the approach of this thesis is to attempt to draw conclusions from within the halachic framework. And, even with the harsh realities presented in Section II of the current factory farming practices, it is not necessary that an answer be found outside the halachic box.

On the other hand, the call for the support of free-range/organic kosher industries does seem to demarcate a place of reconciliation from within that box. Note that this answer makes the assumption that the mere killing of animals does *not* in and of itself constitute cruelty to animals. Rather, this answer seems to grow naturally out of the demands of halachic *tsaar baalei chayim*. From the above discussion, the author concludes that the rules of *tsaar baalei chayim* can not be set aside for the sake of raising animals for the consumption of their products. Free-range/organic kosher products demand that new industries be created in which animals are raised in cruelty-free conditions and that the products from these farms also be authorized by the *kashrut* organizations. Thus, these farms would not set aside the laws of *tsaar baalei chayim*. In reference to the above criticism of boycotting and vegetarianism/*eco-kashrut*, the customer choice of continuing to purchase meat but from a different industry, has the

potential to set up competition for the mega factory farms. By promoting cruelty-free farming and creating new such industries, the Jewish consumer has the ability to be active against the known sins committed in modern farms. By purchasing free-range, that is truly free-range, there is no standing by idly. Rather, the Jew is actively working against those who break the laws of *tsaar baalei chayim*.

The problem with this answer, of course, comes down to legal and financial matters. There must be changes in the standards for labeling products as free-range organic. That is, it must be known that when these labels are used, they guarantee the purchaser that the animals were raised in cruelty-free farms. The other challenge facing this solution is that there are great financial barriers to such a venture. As presented in Section II, factory farms hold the monopoly on the meat/dairy/egg products produced in the US. Thus, the products from these industries are cheaper than any other small-scale businesses. This is evidenced today by the slightly more expensive price of most free-range/organic products in comparison to the regular products. On both an individual and company basis, the financial costs of this solution is quite high. However, by promoting such a solution amongst the Jewish community it is possible to shift the supply/demand scales in favor of the consumer. This of course would take a huge shift in Jewish purchasing patterns. However, according to the dictates of our tradition this shift is demanded. For, it is clear from the discussion presented throughout this conclusion that *tsaar baalei chayim* must continue to operate within the modern world of meat/dairy/egg production. There is no apparent halachic argument that allows for the breaking of this *mitzvah*. And it is this solution, that of actually changing the way in which animals are raised, that seems to best answer the current dilemma.

Unanswered Questions and Future Challenges

There are many problems that are left unresolved at the conclusion of this thesis. In terms of Jewish law, there is the question of what type of human need is worthy of superceding the laws of *tsaar baalei chayim*. It appears that an in-depth investigation focusing only on the responsa following the Rema's comment on Even Haezer 5:14 is needed to pursue such an answer. Perhaps a survey of the opinions of contemporary rabbis in the traditional would also shed light on this question.

Turning to the conditions in which animals are reared for consumable products, there are many issues left to be resolved. First of all, there is the simple issue of an unaware public. There are many people who have absolutely no idea about the realities described in Section II. Unfortunately, there is also a segment of the population that *is* aware of the issue and chooses the path of ignoring that reality. Both of these stances must be confronted by increased education and publicizing of the conditions on factory farms. It seems that support by mainstream organizations, as opposed to merely those perceived by the public as radical animal rights groups, would push this issue out of the margins of public interest.

Yet another problem relating to those with awareness but who are ignoring the issue comes from *kashrut* authorities. It appears from the survey taken of this group that there are very few *kashrut* authorities that view the continuing consumption of these products by Jew as problematic. Conjectures as to the reasons for this lack of concern about factory farming conditions were presented in Section III. However, the overriding point is that the very people who are "experts" in the laws of Jewish consumption are

choosing to maintain fences around one set of laws, *kashrut*, while seemingly ignoring those of *tsaar baalei chayim*.

While it is not clear how to directly approach the resistance from the *kashrut* authorities, it is possible that financial pressure placed upon the factory farming system as a whole may also have an effect on the *kashrut* industry. The financial challenge, however, appears to be one of the greatest obstacles to fighting the current farming conditions. Agri-business production of animal based food products holds the power in this industry. How does one begin to work against such a mega-industry? It seems that the only voice that will be heard is that of the consumer's dollar. While it may take years for both the Jewish community and the greater public to learn about and then to believe this information, it is a moral imperative that consumers are educated about the many cruel realities of factory farming. Perhaps then a majority of the population will begin to make the moral switch away from support of this system.

Glossary of Terms ¹

| | |
|---------------------------------|---|
| Achronim | Later rabbinic authorities. In contradistinction to rishonim (early ones). |
| agri-business | The modern industrial system of raising animals for food products. |
| bal tashchit | A Jewish concept that teaches we must not waste or use resources wantonly. |
| baraita | Includes all the other mishnaic material compiled and transmitted by the Sages after the Mishnah. |
| berachah | Blessing. |
| Cohen | Jew of priestly descent. |
| factory farming | The modern industrial system of raising animals for food products. |
| G/gemarah | Traditions, discussions and rulings of the amoraim commenting on and supplementing the Mishnah, and forming part of the Babylonian and Palestinian Talmuds. |
| halachah | An accepted decision in rabbinic law. |
| issur | A prohibition. |
| kosher | Food that is permissible to eat according to Jewish law. |
| kal vachomer | The method of reasoning from the minor to the major, an argument a fortiori. |
| kashrut | The body of Jewish dietary laws. |
| kashya | A difficulty or contradiction in the text. |
| maaseh | A case or incident. |
| minchah | Afternoon prayer. |
| minhag | Ritual custom. |
| M/mishnah | Earliest codification of Jewish Oral Law. Can also refer to a part of a chapter, a chapter part of a tractate, a tractate part of an Order. Every passage of the Talmud ostensibly belongs to the discussion of one mishnah or another. |
| mitzvah/mitzvot (pl.) | An obligation or commandment. |
| Motzei Shabbat | Saturday night after the Sabbath has gone out. |
| muktzeh | Refers to an object that can not be moved on Shabbat or Yom tov. |
| perikah | The mitzvah of unloading. |
| poskim | Those who pronounce decisions in disputes and on questions of Jewish law. |
| Responsum/responsa (pl.) | Written opinion given to question on aspects of Jewish law by qualified authorities; pl. collection of such queries and opinions in book form. |
| shochet/im | Person qualified to perform shechitah. |

¹ Definitions taken from: "Glossary" Encyclopedia Judaica Jerusalem: Keter Publishing House. ; Yizhak Frank, The Practical Talmud Dictionary Jerusalem: Ariel United Institutes, 1991; Ronald Isaacs, The Jewish Information Source Book Northvale, NJ: Jason Aronson, 1993; R. J. Zwi Werblowsky and Geoffrey Wigoder eds., The Oxford Dictionary of the Jewish Religion NY: Oxford University Press, 1997.

| | |
|----------------------------|--|
| shechitah | Ritual slaughtering of animals. |
| sheulah | A request for a ruling. |
| Stam | This is an abbreviation for the Stam Talmud, or anonymous voice of the Talmud. |
| sugya | A connected passage of Gemara containing a series of questions and answers. |
| tana kama | The tana whose statement is presented first in a mishnah or baraita. |
| toraitic (mitzvah) | Laws whose authority come directly from the Torah (the five books of Moses). |
| treif/treifut | Any food that is not kosher. |
| tsaar baalei chayim | Mitzvah to prevent cruelty to or suffering of animals. |
| terutz | A solution given in the gemara in order to reconcile a textual difficulty. |
| teshuvah | An answer given to a sheulah, and it is established as law in accordance with the rulings given. |
| Yom Tov | A festival. |

Table of Abbreviations

| | |
|------|-----------------|
| AZ | Avodah Zarah |
| BM | Bava Metzia |
| BY | Beit Yosef |
| CH”M | Choshen Mishpat |
| E”H | Even Haezer |
| MB | Mishnah Brurah |
| MT | Mishnah Torah |
| O”CH | Orach Chayim |
| NY | Nimmukei Yosef |
| SA | Shulchan Aruch |
| SH | Sefer Hachinuch |

Works Cited and Consulted

Primary Sources and Translations:

Asher, Yaakov ben. The Tur. Jerusalem: Par Haturim, 1969.

The CD Rom Judaic Classics Library, Deluxe Edition. Chicago: Institute for Computers in Jewish Life and Davka Corporation, 1991-95.

Epstein, Yehiel Michal Halevi. Aruch Hashulchan. Warsaw: 1893.

Hacohen, R. Yisrael Meir. Mishnah Berurah. Ed. R. Aviel Orenstein. Jerusalem: Feldheim Publishers, 1993.

HaLevi, Pinchas. Sefer Hachinuch. Trans. Charles Weingrov. Jerusalem: Feldeim Publishers, 1978.

Karo, Joseph. Shulchan Aruch. Jerusalem: Par Haturim, 1972.

Maimonides, Moses. Mishnah Torah. Jerusalem: Mossad Harav Kook, 1963.

Oberman, Julian, ed. The Code of Maimonides. Trans. Hyman Klein. New Haven: Yale University Press, 1954.

The Responsa Project Version 8. Bar Ilan University: 1972-2000.

Steinsaltz, R. Adin. Talmud Bavli. Jerusalem: Israel Institute for Talmudic Publications, 1986.

Talmud Bavli. Vilna Edition. NY: M'oroth Publishing, 1961.

Talmud Bavli. The Schottenstein Edition. Brooklyn: Mesorah Publications, 1992.

The Tanach. Jerusalem: Koren Publishers, 1992.

Secondary Sources:

Adcock, Melanie and Mary Finelli. "The Dairy Cow: America's Foster Mother." Humane

Society of the United States News Winter 1995.

Alter, Robert. "A New Theory of Kashrut." Commentary Aug. 1979.

Artson, Bradley Shavit. "Tza'ar Baalei Hayyim: Compassion to Animals." The Jewish Spectator Winter 1991-92: 19-28.

Berman, Louis. Vegetarianism and the Jewish Tradition. NY: KTAV Publishing House, 1982.

Bleich, David. Contemporary Halachic Problems. NY: KTAV Publishing House, 1989.

Bukukmihici, Nediim. "Ethical and Practical considerations for Nonhuman Animals Used for Food and Fiber." <<http://arrrs.envirolink.org/avas/farmanima.htm>>
Posted 23 March 1999: 8.

Carmell, Aryeh. Aiding Talmud Study. Jerusalem: Feldheim Publishers, 1998.

Cohen, Noah J. Tsa'ar Ba'le Hayim. The Prevention of Cruelty to Animals: Its Bases Development and legislation in Hebrew Literature. Jerusalem: Feldheim Publishers, 1976.

Davis, Karen. Prisoned Chickens Poisoned Eggs: An Inside Look at the Modern Poultry Industry. Summertown, TN: Book Publishing Co., 1996.

Dresner, Samuel H. The Jewish Dietary Laws: Their Meaning For our Time. NY: The Rabbinical Assembly America, 1982.

Duvn, Edward. "Neither Fit nor Proper." Reconstructionist Summer 1983: 27-30.

Elon, Menachem. "Minhag." Encyclopedia Judaica. 1972 ed.

Frank, Yitzhak. The Practical Talmud Dictionary. Jerusalem: The Ariel Institute, 1991.

Golinkin, David. "Responsa: Is it permissible for Jews to purchase and eat veal/to raise veal calves?" Moment Feb.1993: 26-27.

Hirsh, Richard. "A Reconstructionist Exploration of Dietary Law: Kosher Consciousness and Jewish Identity." Reconstructionism Today Summer 1998.

Isaacs, Ronald. The Jewish Information Source Book. Northvale, NJ: Jason Aronson, Inc., 1993.

Jastrow, Marcus. A Dictionary of the Talmud. NY: Judaic Press, 1975.

Jewish Vegetarian Newsletter. Federalsburg, Maryland: Jewish Vegetarians of North America, Summer/Fall 1998.

Kalechofsky, Roberta. Judaism and Animal Rights: Classical and Contemporary Responses. Marblehead, MA: Micah Publications, 1992.

---. Rabbis and Vegetarianism: An Evolving Tradition. Marblehead, MA: Micah Publications, 1995.

---. Vegetarian Judaism: A Guide for Everyone. Marblehead, MA: Micah Publications, 1998.

Kaplan, Zvi. "Animals, Cruelty to." Encyclopedia Judaica 1972 ed.

Kook, Avraham Yitzhak Hacohen. A Vision of Vegetarianism and Peace. Ed. David Cohen. Trans. Jonathon Rubenstein.

Marcus, Erik. "Slaughter of the Innocents." Salon Magazine 12 Jan. 1998.

Maslin, Simeon J., ed. Gates of Mitzvah: A Guide to the Jewish Lifecycle. NY: Central Conference of American Rabbis, 1979.

Mason, Jim and Peter Singer. Animal Factories: An Inside Look at the Manufacturing of Food for Profit. NY: Crown Publishers, Inc., 1980.

Mossman, Eva, ed. Jewish Vegetarian Newsletter. Summer- Fall 1998.

Munk, Elie, Michael Munk, eds. Shechitah: Religious and Historical Research on the

- Method of Slaughter. NY: Feldheim Publishers, 1976.
- People for the Ethical Treatment of Animals (PETA). Vegetarian Starter Kit. Norfolk, VA: PETA.
- Plaut, Gunther. "Steak and Sacrifices." The Jerusalem Report 7 April 1994: 55.
- Plotkin, Paul and Arthur Lavinsky. "Animal Rights vs. Kashrut: Should Factory Farming Render Meat Treif?" JTS Magazine Winter 2000.
- Rice, Pamela. 101 Reasons Why I'm a Vegetarian. 4th ed. NY: The VivaVegie Society, 1998.
- Rose, Aubrey, ed. Judaism and Ecology. London: Cassell Publishers Limited, 1992.
- Rosenthal, Edward. "Ethical Vegetarianism: The Perspective of a Reform Jew." CCAR Journal: A Reform Jewish Quarterly Spring 1992: 49-60.
- Schochet, Elijah Judah. Animal Life in Jewish Tradition: Attitudes and Relationships. NY: KTAV Publishing House, 1984.
- Schulweis, Harold M. "Thou Shalt Eat Vegetables." Reform Judaism Summer 1995.
- Schwartz, Richard H. Judaism and Animal Issues: a green mitzvah booklet. Marblehead, MA: Micah Publications, 1993.
- . Judaism and Vegetarianism. Marblehead, MA: Micah Publications, 1998..
- Shapiro, Rami. Minyan: Ten Principles for Living a Life of Integrity. NY: Bell Tower, 1997.
- Singer, Peter. Animal Liberation. NY: Avon Books, 1975.
- Strassfeld, Sharon and Micheal Strassfeld. The Third Jewish Catalog: Creating Community. Philadelphia: the Jewish Publication Society of America, 1980.
- Toperoff, Shlomo Pesach. The Animal Kingdom in Jewish Thought. Northvale, NJ:

Jason Aronson, Inc, 1995.

Trimmer, Joseph F. The Essential of MLA Style. NY: Houghton Mifflin Company, 1996.

Turner, Jacky. "Factory Farming and the Environment."

<<http://www.ciwf.co.uk/envirolink.htm> Oct. 1999.

Vile-Tahl, Stewart. "Guidelines for an eco-kosher kitchen." Sh'ma 15 March 1996: 4-6.

Waskow, Arthur. Down to Earth Judaism: Food, Money, Sex and the Rest of Life. NY: William Morrow and Company, Inc., 1995.

Weinberg, Werner, ed. Hebrew Transliteration According to Israeli Pronunciation.

NY: Union of American Hebrew Congregations, 1977.

Weintraub, Samuel. "The Spiritual Ecology of Kashrut." Reconstructionist Winter 1991-92: 12-14.

Werblowsky, Zwi and Geoffrey Wigoder, eds. The Oxford Dictionary of Jewish Religion. NY: Oxford University Press, 1997.

Websites:

Animal Protection Institute (API). <<http://www.api4animals.org>>

Compassion in World Farming Trust. <<http://www.ciwf.co.uk>>

Doris Day Animal League. <<http://www.ddal.org>>

FactoryFarming.com. <<http://factoryfarming.com/>>

Farm Animal Reform Movement (FARM). <<http://www.farmusa.org>>

The Fund For Animals. <<http://www.fund.org>>

Humane Farming Association (HFA). <<http://www.hfa.org>>

Humane Society of the United States (HSUS). <<http://www.hsus.org>>

In Defense of Animals. <<http://www.idausa.org>>

Microsoft Encarta Online Encyclopedia 2000. <<http://encarta.msn.com>>

Organic Kosher Foods. <<http://www.organic-kosher.co.uk/>>

People for the Ethical Treatment of Animals (PETA). <<http://www.peta-online.org>>

Richard Schwartz. <<http://schwartz.enviroweb.org/>>

United States Department of Agriculture. <<http://www.fsis.usda.gov>>

Vegan Outreach. <<http://www.veganoutreach.org>>