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S.A. Even ha-Ezer 5:14 (gloss)

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Veal Calves

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שאלה

Considering the conditions in which veal calves are raised, do the halakhic prohibitions of צער בעלי חיים, inflicting suffering on animals, and אכזריות, cruelty, make the raising of veal calves in such a manner and the selling, purchase, or consumption of veal from these animals no longer permissible?

תשובה

In 2000, the Committee on Jewish Law and Standards approved a *teshuvah* prohibiting the use of shackling and hoisting in kosher slaughter based on the principle of צער בעלי חיים, the

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prohibition of inflicting suffering on animals.[1] Similarly, the manner in which veal calves are raised both in Israel and the United States[2] has led to serious questions as to the halakhic permissibility of the raising of veal calves in such a manner and of the selling, purchase, and consumption of veal from animals raised in this manner. Veal calves have been subjected to intensive confinement that prevents them from lying down or turning around and to inadequate nutrition, including an all-liquid milk replacer diet in place of a mixed diet with sufficient iron appropriate for young calves, among other problematic practices.[3] Veterinarians and animal welfare groups have sought to draw attention to the plight of veal calves in order to ameliorate these conditions. These concerns inspired Rabbi Moshe Feinstein in 1982 and Rabbi David Golinkin in 1993 to evaluate the halakhic permissibility of veal, and the purpose of this teshuvah is to examine the question anew in light of new guidelines and regulations for the raising of veal calves and new responses by the veal industry.

Biblical Considerations

God is portrayed in biblical texts as being concerned for the welfare of animals. God creates vegetation as food for both human beings and animals (Gen 1:29-30). In the account of the Deluge, God commands Noah to expend a significant amount of effort to preserve every species of animal (Gen 6:19-21; 7:2-3). Jonah is reprimanded by God, who makes it clear that he

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[1] Elliot N. Dorff and Joel Roth, "Shackling and Hoisting," *Responsa, The Committee on Jewish Law and Standards of the Conservative Movement, 1991-2000* (ed. Kassel Abelson and David J. Fine; New York: The Rabbinical Assembly, 2002), pp. 93-97.

[2] I am focusing on Israel and the United States in this teshuvah. However, the raising of veal calves in Canada, Europe and Latin American is as great a concern. It is my hope that this teshuvah will serve a model to enable the rabbis in those countries to investigate the source and condition of veal calves more adequately.

[3] This type of veal is often termed "milk-fed veal." Bob veal refers to veal calves slaughtered as soon as they can be brought to a processing plant, within days to three weeks after birth, not to how they are fed.

has compassion on both children and cattle (Jonah 4:11). The psalms and the book of Job declare that God supplies food for all creatures (Psalms 104:27-28; 36:9; 145:16; 147:9; Job 38:41)

At the same time that God's compassion for animals is reflected in biblical texts, a definite hierarchy is established in which human beings have superior status to animals. Human beings are created in the image of God at the culmination of creation and are granted a license over the animals:

> וַיְבָרֶךְ אֹתָם אֱ-לֹהִים וַיֹּאמֶר לָהֶם אֱ-לֹהִים פְּרוּ וּרְבוּ וּמִלְאוּ אֶת־הָאָרֶץ וְכִבְשֻׁהָ וּרְדוּ בִּדְגַת הַיָּם וּבְעוֹף הַשָּׁמַיִם וּבְכָל־חַיָּה הָרֹמֶשֶׂת עַל־הָאָרֶץ׃
> God blessed them, and God said to them: "Be fruitful and multiply, and fill the earth and subjugate her. Have dominion over the fish of the sea, the birds of the sky, and the animals that roam on the earth." (Genesis 1:28)

God reigns supreme over all creation, including human beings, and human beings are to have dominion over all other terrestrial and celestial phenomena, including creatures of the sea, sky, and land. Human beings are set into an environment furnished for human beings and are authorized to utilize animals for human benefit.[4]

Nonetheless, other biblical passages demand that human beings treat animals with compassion:

> כִּי־תִרְאֶה חֲמוֹר שֹׂנַאֲךָ רֹבֵץ תַּחַת מַשָּׂאוֹ וְחָדַלְתָּ מֵעֲזֹב לוֹ עָזֹב תַּעֲזֹב עִמּוֹ׃
> When you see the donkey of your enemy lying under its burden and would hesitate to rearrange[5] it, you must nevertheless rearrange it with him. (Exodus 23:5)

> לֹא־תִרְאֶה אֶת־חֲמוֹר אָחִיךָ אוֹ שׁוֹרוֹ נֹפְלִים בַּדֶּרֶךְ וְהִתְעַלַּמְתָּ מֵהֶם הָקֵם תָּקִים עִמּוֹ׃
> If you see your fellow's donkey or ox fallen on the road, do not ignore it: you must help him raise it. (Deuteronomy 22:4)

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[4] J. J. Finkelstein, *The Ox That Gored* (Transactions of the American Philosophical Society, volume 71, part 2; Philadelphia: American Philosophical Society, 1981), pp. 7-8.

[5] Based on the Ugaritic root, *'db*, "to put into order, arrange" (see Gregorio del Olmo Lete and Joaquín Sanmartin, *A Dictionary of the Ugaritic Language in the Alphabetic Tradition* [Handbook of Oriental Studies, Section 1, the Near and Middle East, 67; Leiden: Brill, 2003], pp. 148-49). See Nehemiah 3:8, 34, where the root is used with this meaning, and M. E. J. Richardson, ed., *Hebrew and Aramaic Lexicon of the Old Testament* (Leiden: Brill, 2001), pp. 807-8.

כִּי יִקָּרֵא קֵן־צִפּוֹר | לְפָנֶיךָ בַּדֶּרֶךְ בְּכָל־עֵץ | אוֹ עַל־הָאָרֶץ אֶפְרֹחִים אוֹ בֵיצִים וְהָאֵם רֹבֶצֶת עַל־הָאֶפְרֹחִים
אוֹ עַל־הַבֵּיצִים לֹא־תִקַּח הָאֵם עַל־הַבָּנִים: שַׁלֵּחַ תְּשַׁלַּח אֶת־הָאֵם וְאֶת־הַבָּנִים תִּקַּח־לָךְ לְמַעַן יִיטַב לָךְ
וְהַאֲרַכְתָּ יָמִים:

If you happen upon a bird's nest, whether in a tree or on the ground with the fledglings or eggs and the mother sitting over the fledglings or the eggs, do not take the mother together with her young. You must let the mother go and take only the young so that you may fare well and have a long life. (Deuteronomy 22:6-7)

לֹא־תַחֲרֹשׁ בְּשׁוֹר־וּבַחֲמֹר יַחְדָּו:
You shall not plow with an ox and a donkey together.[6] (Deuteronomy 22:10)

לֹא־תַחְסֹם שׁוֹר בְּדִישׁוֹ:
You shall not muzzle an ox when it is threshing. (Deuteronomy 25:4)

Sabbath rest is extended to animals:

שֵׁשֶׁת יָמִים תַּעֲשֶׂה מַעֲשֶׂיךָ וּבַיּוֹם הַשְּׁבִיעִי תִּשְׁבֹּת לְמַעַן יָנוּחַ שׁוֹרְךָ וַחֲמֹרֶךָ וְיִנָּפֵשׁ בֶּן־אֲמָתְךָ וְהַגֵּר:
"Six days you shall do your work, but on the seventh day you shall cease from labor in order that your ox and your donkey may rest and your bondman and resident alien may be refreshed." (Exodus 23:12)

Sabbath rest is required so that animals who toil for human beings may rest.

The laws reflecting compassion for animals are limited to animals in which human beings have a utilitarian interest, whether domestic or wild.[7] Human beings have responsibilities only to those species of use to human beings. The others are ignored.[8]

Here lies the paradox. At the same time that human beings are permitted to use animals and indeed must use them, they must also treat them with compassion. This is reflected in numerous situations, and a few examples can suffice to illustrate it. While human beings are

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[6] Ibn Ezra argued that this commandment was based on the fact that the ox and donkey have different physical capacities and that yoking them together would cause the weaker one, the donkey, to suffer by being forced to keep up with the ox. (Miqraot gedolot, s.v. לא תחרוש בשור ובחמור). Maimonides argued that this might lead to copulation, an act which would be painful for animals of different species (*The Guide of the Perplexed* [Shlomo Pines, trans.; Chicago: University of Chicago, 1963], part 3, chapter 49, p. 609).

[7] Elijah J. Schochet, *Animal Life in Jewish Tradition: Attitudes and Relationships* (New York: Ktav, 1984), p. 63.

[8] One might even argue that compassion for domestic animals might also be seen as practical advice for the benefit of the human owner.

portrayed as having a vegetarian diet initially, later generations are permitted to eat meat with restrictions. The first human beings are told:

וַיְצַו ה' אֱ-לֹהִים עַל־הָאָדָם לֵאמֹר מִכֹּל עֵץ־הַגָּן אָכֹל תֹּאכֵל:
The LORD God commanded the man: "Of every tree of the garden you are free to eat."(Genesis 2:16)

וּלְאָדָם אָמַר כִּי־שָׁמַעְתָּ לְקוֹל אִשְׁתֶּךָ וַתֹּאכַל מִן־הָעֵץ אֲשֶׁר צִוִּיתִיךָ לֵאמֹר לֹא תֹאכַל מִמֶּנּוּ אֲרוּרָה
הָאֲדָמָה בַּעֲבוּרֶךָ בְּעִצָּבוֹן תֹּאכְלֶנָּה כֹּל יְמֵי חַיֶּיךָ:וְקוֹץ וְדַרְדַּר תַּצְמִיחַ לָךְ וְאָכַלְתָּ אֶת־עֵשֶׂב הַשָּׂדֶה:
"...Cursed be the ground because of you. By toil you shall eat of it all the days of your life. Thorns and thistles shall it sprout for you. and you shall eat the vegetation of the field." (Genesis 3:17-18)

However, after the Flood, the scope of what is acceptable as food is enlarged. Noah is instructed that the flesh of animals may be eaten as long as the blood is not consumed:

כָּל־רֶמֶשׂ אֲשֶׁר הוּא־חַי לָכֶם יִהְיֶה לְאָכְלָה כְּיֶרֶק עֵשֶׂב נָתַתִּי לָכֶם אֶת־כֹּל: אַךְ־בָּשָׂר בְּנַפְשׁוֹ דָמוֹ לֹא תֹאכֵלוּ:
"Every creature that lives shall be yours to eat; as with the green vegetation, I give you all these. You must not however eat flesh with its life-blood in it."(Genesis 9:3-4)

According to the regulations of the Torah, the Israelites were permitted to eat animal flesh under restrictions as well:

אִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל אֲשֶׁר יִשְׁחַט שׁוֹר אוֹ־כֶשֶׂב אוֹ־עֵז בַּמַּחֲנֶה אוֹ אֲשֶׁר יִשְׁחַט מִחוּץ לַמַּחֲנֶה:
וְאֶל־פֶּתַח אֹהֶל מוֹעֵד לֹא הֱבִיאוֹ לְהַקְרִיב קָרְבָּן לַה' לִפְנֵי מִשְׁכַּן ה' דָּם יֵחָשֵׁב לָאִישׁ הַהוּא דָּם שָׁפָךְ
וְנִכְרַת הָאִישׁ הַהוּא מִקֶּרֶב עַמּוֹ:

If anyone of the Israelite people slaughters an ox, sheep, or goat in the camp or does so outside the camp and does not bring it to the entrance of the Tent of Meeting to present it as an offering to the LORD, before the LORD's Tabernacle, bloodguilt shall be imputed to that man. He has shed blood. That man shall be cut off from among his people. (Leviticus 17:3-4)

כִּי־יַרְחִיב ה' אֱ-לֹהֶיךָ אֶת־גְּבוּלְךָ כַּאֲשֶׁר דִּבֶּר־לָךְ וְאָמַרְתָּ אֹכְלָה בָשָׂר כִּי־תְאַוֶּה נַפְשְׁךָ לֶאֱכֹל בָּשָׂר
בְּכָל־אַוַּת נַפְשְׁךָ תֹּאכַל בָּשָׂר: כִּי־יִרְחַק מִמְּךָ הַמָּקוֹם אֲשֶׁר יִבְחַר ה' אֱ-לֹהֶיךָ לָשׂוּם שְׁמוֹ שָׁם וְזָבַחְתָּ
מִבְּקָרְךָ וּמִצֹּאנְךָ אֲשֶׁר נָתַן ה' לְךָ כַּאֲשֶׁר צִוִּיתִךָ וְאָכַלְתָּ בִּשְׁעָרֶיךָ בְּכֹל אַוַּת נַפְשֶׁךָ: אַךְ כַּאֲשֶׁר יֵאָכֵל
אֶת־הַצְבִי וְאֶת־הָאַיָּל כֵּן תֹּאכְלֶנּוּ הַטָּמֵא וְהַטָּהוֹר יַחְדָּו יֹאכֵלֶנּוּ: רַק חֲזַק לְבִלְתִּי אֲכֹל הַדָּם כִּי הַדָּם הוּא
הַנָּפֶשׁ וְלֹא־תֹאכַל הַנֶּפֶשׁ עִם־הַבָּשָׂר: לֹא תֹאכְלֶנּוּ עַל־הָאָרֶץ תִּשְׁפְּכֶנּוּ כַּמָּיִם: לֹא תֹאכְלֶנּוּ לְמַעַן יִיטַב לְךָ
וּלְבָנֶיךָ אַחֲרֶיךָ כִּי־תַעֲשֶׂה הַיָּשָׁר בְּעֵינֵי ה':

When the LORD your God expands your borders as he has said and you think that you will eat meat because you desire to eat meat, and the place that the LORD shall choose to place his name there is far from you, you shall sacrifice from your herd or flock which the LORD gave you as he commanded you, you shall eat within your gates as you desire, but just as the hind and the gazelle are consumed, so shall you consume the ritually unclean and clean together. Just be sure to not consume the life-blood for the blood is the life and you shall not consume the life with the flesh. Do not consume it. You shall spill it on the ground like water. Do not consume it so that it will be well with you and your children because you do what is right in the eyes of the LORD. (Deuteronomy 12:20-25).

Human beings at first were disallowed from consuming animals, but then were permitted to do so under restrictions.[9]

Indeed, animals were an essential aspect of sacrificial worship, along with grain and libation offerings. Israelites were required to eat particular animal sacrifices. The Pesaḥ and festival offerings were obligatory.(Exodus 12:3-11; Leviticus 23:5, 19; Deuteronomy 16:2-3)

Human beings were allowed to consume animals under certain restrictions and were required to partake of them during certain holy days. Human beings were given the license to utilize animals but at the same time were commanded to treat them with compassion. God, too, is portrayed as having compassion for animals.

Rabbinic Concerns and the Parameters of צער בעלי חיים[10]

The classical rabbis coined the terminology צער בעלי חיים as a way of expressing the requirement to avoid inflicting suffering on animals and to relieve the suffering of animals that is expressed in the biblical verses on compassion for animals. In b. Bava Metzia 32a-32b, the principle comes into effect in the requirement to unload an animal struggling under its burden. The

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[9] This would make it appear that meat frequently appeared in the ancient Israelite diet. Yet, in fact, it seems that the main items of the ancient Israelite diet were grains, dairy products, fruit, and vegetables and that domestic animals were reserved in general for labor. (See Oded Borowski, "Eat, Drink and Be Merry: The Mediterranean Diet," *Near Eastern Archaeology* 67 [2004], 99-100; Edwin Firmage, "Zoology [Animal Profiles]," *Anchor Bible Dictionary*, VI.1120.) Meat was not part of the daily diet of the average ancient Israelite. It was eaten as part of a special meal, prepared for entertaining guests (Genesis 18:6-8) or for celebrating festivals and civic events. The average diet was most likely similar to what the workers in the field in the book of Ruth are described as eating -- bread dipped in vinegar, and parched and roasted grain. (Ruth 2:14)

[10] For an annotated listing of rabbinic works dealing with this principle, see Hayyim Hezekiah Medini, *Sdei ḥemed* (ed. Sheneurson; New York: n.p., 1959), pp. 639b-640a. For a general survey in English, see Noah J. Cohen, *Tsa'ar ba'ale ḥayim: The Prevention of Cruelty to Animals -- Its Bases, Development, and Legislation in Hebrew Literature* (Jerusalem: Feldheim, 1976).

animal must be unloaded by a passerby because the suffering of animals must be relieved.[11] In b. Hullin 7b, an act that would benefit human beings is disallowed because of the prohibition of inflicting suffering on animals.

> כי אתא, איתרמי על בההוא פיתחא דהוו קיימין ביה כודנייתא חוורתא, אמר: מלאך המות בביתו של זה ואני אסעוד אצלו? שמע רבי נפק לאפיה, אמר לי: מזבנינא להו, אמר ליה: ולפני עור לא תתן מכשול. מפקרנא להו, מפשת היזקא. עקרנא להו, איכא צער בעלי חיים. קטילנא להו, איכא בל תשחית.
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> When (Rabbi Pinchas) arrived, he happened to enter by a gate near which were some white mules. At this, he exclaimed: The angel of death is in this house! Should I then dine here? When Rabbi heard of this, he went out to meet him. Rabbi said: I will sell the mules. Rabbi Pinchas said: *You shall not put a stumbling-block before the blind* (Leviticus 19:14). (Rabbi said:) I will abandon them. (Rabbi Pinchas said:) You would be spreading danger. (Rabbi said:) I will hamstring them. (Rabbi Pinchas said:) You would be causing suffering to animals. (Rabbi said:) I will kill them. (Rabbi Pinchas said:) There is a prohibition against wanton destruction.

Dangerous animals should be disabled, but the prohibition of inflicting suffering on animals forbids it, while in b. Avoda Zara 13a, only an explicit prooftext from Scripture could allow for a particular act that inflicts suffering on animals:

> אמר מר: בהמה תיעקר. והא איכא צער בעלי חיים! אמר אביי, אמר רחמנא: את סוסיהם תעקר.
> The master stated: Cattle should be disabled. But is there not the prohibition of inflicting suffering on animals? Abaye said: Scripture says, *Their horses you shall hamstring* (Joshua 11:6).

By creating the term צער בעלי חיים, a principle has been abstracted from the biblical verses and applied to situations not covered by them.

צער בעלי חיים governs proper nutrition. It is forbidden to purchase a domestic or wild animal or bird if one does not have the means to feed it (y. Yevamot 15:3, 14d [= y. Ketubot 4:8,

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[11] Concomitant with the rule of alleviating the suffering of animals is another rule cited in that sugya. The passerby's assistance is also mandated by the principle that the financial loss incurred by the owner of the animal must be minimized. Both rules dictate that the animal must be helped, and their concurrence reinforces the basis for the necessary action. However, later commentators placed varying degrees of emphasis on the second principle. While Rabbenu Hananel does mention the second principle, explaining that the financial loss of the owner would be due to the death of the animal caused by the burden, the Rosh omits any mention of financial loss in his discussion of the necessity to unload the animal (Rosh, Chapter 2 of Bava Metzia, comment 30). He highlights only the need to alleviate the suffering of the animal.

29a]). According to b. Berakhot 40a (= b. Gittin 62a), based on Deuteronomy 11:15, one may not sit down to eat until one's animals are fed. Even if one has already uttered the blessing over bread, one may interrupt partaking of it to ask whether one's animals are fed. These concerns are reaffirmed and expanded in later halakhah. Rabbi Abraham Gumbiner rules that one must feed an animal that is not one's own.[12] Rambam rules that the prohibition against muzzling an ox while threshing grain is to be applied equally to other animals, other produce, and other agricultural labors.[13] Rabbi Judah he-Ḥasid writes:

> אף אם עשה צער לבהמה בחנם כמו שמשים עלי' משאוי יותר מכדי הראוי ומכה אותה והיא אינה יכולה ללכת בא לדין על שציער בע"ח וכן המושכים אזני החתולים להשמיע צעקתם הם חוטאים גם דרשו חכמים ביום [ההוא נאום ה'] אכה כל סוס (בשגעון ורוכבו בעורון) [בתמהון ורוכבו בשגעון] עתיד הקב"ה להפרע עלבון סוסים מרוכביהם על שהכו אותם במגפיים שקורין ספורני בלע"ז.
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> "If one caused suffering to an animal without good cause, like putting too heavy a load upon an animal and beat it even though it could not walk, would be liable because he caused an animal to suffer. Likewise, those who pull the ears of cats to make them scream are sinners. The sages expounded *On that day, declares the LORD, I will strike every horse with panic and its rider with madness* (Zechariah 12:4) to mean that in the future God will requite the humiliation of horses by their riders who strike them with boots called ספורני in French[14]."[15]

One may still ride a horse or have a beast of burden carry a load, but not in a cruel manner.

The rabbis in developing the concept of the seven Noahide laws incumbent on all human beings included the prohibition of eating flesh torn from a living animal. (b. Sanhedrin 56a-60b;

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[12] O. H. 324, section 7.

[13] Sefer ha-mitzvot, *mitzvot lo ta'aseh*, number 219.

[14] "Spour" in medieval French, "éperon" in modern French. See Frédéric Godefroy, *Lexique de l'ancien Françai*ş (Paris: Honoré Champion, 1990), p. 494.

[15] *Sefer ḥasidim* (ed. Reuven Margoliot; Jerusalem: Mossad ha-Rav Kook, 1957), section 44, p. 104. See also section 670, p. 427 for the reservation that one may chase away a dog only with restraint.

Tosefta Avodah Zarah 8:4-8) [16] This prohibition exemplifies the rabbis' revulsion from acts causing suffering to animals.

In the post-Talmudic period, the prohibition of inflicting suffering on animals is linked to the requirements for *sheḥiṭah*.[17] Rambam connects this principle to the institutionalization of shehitah in his comments on Genesis 1:29-30.[18] Rambam writes in *The Guide of the Perplexed*:

> Now since the necessity to have good food requires that animals be killed, the aim was to kill them in the easiest manner, and it was forbidden to torment them through killing them by piercing the lower part of their throat or by cutting off one of their members...[19]

In *Sefer ha-Ḥinukh* (16th century), it is noted that the reason for *sheḥitah* being done at the throat with a sharp knife is to prevent the infliction of undue suffering on the animal.[20] While human beings may consume animals and use them, needless pain is forbidden.

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[16] While the other Noahide laws were considered to have been revealed to Adam, the rabbis determined that this particular law was revealed to Noah, since permission to eat meat was granted only after the Deluge. Rabbi Louis Finkelstein dated the formulation of the Noahide laws to the Hasmonean Era because he believed that the context of the Talmudic discussion was not theoretical at all but weighed the issues needed to actually enforce these laws by rabbinic courts, including standards of procedure and evidence -- the Hasmonean era was one in which a sovereign Jewish state would have to address the actual legal status of a non-Jew ("Some Examples of the Maccabean Halaka [sic]," *Journal of Biblical Literature* 49 [1930], pp. 21-25). It is, however, difficult for me to see how this mode of discussion differs from that used for other cases in which rabbis lacked jurisdiction, most notably, capital cases whose jurisdiction was withheld from rabbinic courts and retained by the courts of the sovereign non-Jewish state. However, the prohibition does appear to be a reaction to one of the most notorious acts of the Greek mystery religion of Bacchus. See Walter Burkert, *Greek Religion* (Cambridge: Harvard University Press, 1985), 292.

[17] An anonymous teshuvah published by Michael Higger, *Halakhot ve-aggadot* (New York: Devei Rabbanan, 1933), also links shehitah with the prohibition of inflicting suffering on animals, p. 50. Higger argues that the writer was most likely from Spain.

[18] Miqraot gedolot, at the end of Ramban's lengthy comments on Genesis 1:29-30.

[19] *The Guide of the Perplexed*, ed. Pines, part III, chapter 48, p. 599.

[20] *Sefer ha-ḥinukh* (fifth edition; ed. Ḥayyim David Chavel; Jerusalem: Mossad ha-Rav Kook, 1961), section 440, p. 565. The authorship of *Sefer ha-ḥinukh* is debated. The initial printers of the book attributed it to Rabbi Aaron ha-Levi of Barcelona, but others attribute it to his older brother, Rabbi Pinchas ha-Levi.

Rambam argues that the purpose of this prohibition was not so much to prevent the animal from suffering but to inculcate habits of kindness in human beings and prevent human beings from behaving cruelly:

> פוגע בשנים אחד רובץ תחת משאו ואחד פרק מעליו ולא מצא מי שיטעון עמו, מצוה לפרוק בתחילה משום צער בעלי חיים ואחר כך טוען, במה דברים אמורים בשהיו שניהם שונאים או אוהבים, אבל אם היה אחד שונא ואחד אוהב מצוה לטעון עם השונא תחילה כדי לכוף את יצרו הרע.
>
> As for the person who happens upon two situations, (one in which an animal) is staggering under its load and the other (in which a person) has unloaded his animal and has not found anyone who can help him load it (again), it is a mitzvah to unload first (the animal staggering under its load) because of the suffering of animals and then afterwards (to help) to load. Under which circumstances? In the case when both owners are either enemies or friends, but in the case where one (owner) is a friend and the other (owner) is an enemy, it is a mitzvah to load (the animal) with the enemy in order to subjugate one's evil inclination.[21]

Rambam elaborates further on the critical importance of training people to act kindly in *The Guide for the Perplexed*:

> As for their dictum: [*To avoid causing*] *suffering to animals is* [*an injunction to be found*] *in the Torah* -- in which they refer to its dictum: *Wherefore hast thou smitten thine she-ass* -- it is set down with a view to perfecting us so that we should not acquire moral habits of cruelty and should not inflict pain gratuitously without any utility, but that we should intend to be kind and merciful even with a chance animal individual, except in the case of need -- *Because thy soul desireth to eat flesh* -- for we must not kill out of cruelty or for sport.[22]

The need to train human beings not to act cruelly regulates human behavior beyond the prohibition of inflicting suffering on animals.

How inculcating habits of kindness is to affect human behavior is reflected in the Rema's gloss on Even ha-ezer 5:14:

> כל דבר הצריך לרפואה או לשאר דברים, לית ביה משום איסור צער בעלי חיים (איסור והיתר הארוך סימן נ"ט). ולכן מותר למרוט נוצות מאווזות חיות, וליכא למיחש משום צער בעלי חיים (מהרא"י סי' ק"ס /ק"ה/). ום"מ העולם נמנעים דהוי אכזריות.
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> Anything that is necessary for medicine or anything else does not fall under the jurisdiction of [the prohibition of inflicting] suffering on animals and, therefore,

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[21] M.T. Hilkhot rotzeaḥ, 13:13. This is repeated word-for-word in S.A., H.M., 272:10.

[22] Maimonides, *The Guide for the Perplexed*, ed. Pines, part III, chapter 17, pp. 473-474.

> it is permitted to pluck feathers from live geese and disregard [the prohibition of inflicting] suffering on animals. However, everyone refrains from doing so because it would be cruelty.

The Rema states that anything necessary for human beings, whether for medical needs or anything else, overrules צער בעלי חיים; nonetheless, certain acts should be avoided based on another consideration, that human beings should avoid behaving cruelly to animals. The Rema bases his view on the view of Rabbi Israel Isserlein (Weiner-Neustadt, Austria, 1390-1460). In *Terumat ha-deshen*, Isserlein was responding to the question of whether plucking feathers from a live goose constitutes a permissible act, like the shearing of sheep, or a violation of the prohibition of inflicting suffering on animals:

> אם למרוט נוצות לאווזות חיים, אי דומה לגיזת כבשים או אי הוו צער בעלי חיים? גם לחתוך לשון העוף כדי שידבר, ואזנים וזנב מכלב כדי ליפותו, נראין הדברים דאין אסור משום צער בעלי חיים אם הוא עושה לצורכיו ולתשמישיו. דלא נבראו כל הבריות רק לשמש את האדם, כדאיתא פרק בתרא דקידושין. ותדע דבפ' ב' דב"מ חשיב פריקה צער בעלי חיים, וא"כ היאך מותר משא כבד על בהמתו להוליכו ממקום למקום הא איכא צער בעלי חיים? וכ"ת אין הכי נמי, הא אמרינן התם דרבנן דר"י הגלילי סברו דאפילו תחת משאו שאין יכול לעמוד בו חייב לפרוק וכי ברשיעי עסיקינן? ואמרינן נמי פ' שמונה שרצים דאמר ר' יוסי הרוצה שיסתרס תרנגולתו /תרנגולו/ יטול לכרבלתו, והשתא תיפוק ליה דאסור משום צער בעלי חיים. ואמרינן נמי פ' אין דורשין אמרו ליה לבן זומא מהו לסרוסי כלבא? משמע הלשון דלכתחילה קבעו, והשתא תוכל לומר דמשום צער בעלי חיים מותר. ואל תשיבני מהא דאמרינן פ"ק דחולין מהא דר' פנחס בן יאיר עקרינא להו איכא צער בעלי חיים. דהתם לא קעבד לתשמישו וליפותו אלא כדי שלא יזיקו, וההיא היזיקא לא שכיחא כ"כ, דמסתמא רבינו הקדוש לא הוה מגדל מזיק תוך ביתו כדתניא שילהי פ"ק דב"ק מנין שלא יגדל אדם כלב כו' ת"ל לא תשים דמים בביתך. אלא דרבי פנחס בן יאיר מתוך רוב חסידותו הוה קפיד. ומתוך הלין ראיות הוה נראה קצת דליכא איסור בכה"ג, אלא שהעולם נזהרים ונמנעים, ואפשר הטעם לפי שאינו רוצה העולם [לנהוג] מדות אכזריות נגד הבריות, שיראים דילמא יקבלו עונש על ככה. כדאשכחן פ' הפועלים גבי רבינו הקדוש בההוא עגלא דתלא לרישה בכנפיה, דרבי אמר זיל לכך נוצרת. ואע"ג דהיתר גמור הוא לשחוט העגל לאכילתו, אפ"ה נענש וקבל יסורין על ככה. אח"כ הגידו לי שנמצא כן בפסקי ר"י בפ"ק, ועוד דליכא איסור צער בעלי חיים אא"כ דאין לו ריוח והיינו דלעיל.

> Is plucking feathers from live geese similar to shearing sheep or is it inflicting suffering on animals? Just like cutting the tongue from a bird so that it will talk or the ears and tail from a dog to prettify it, it appears that there is no prohibition due to (the prohibition of) inflicting suffering on animals if he does it for his needs and use. For "animals were created only to serve human beings," as it says in Qiddushin 82a. Know that in Bava Metzia 32b, unloading is considered (necessary because of the prohibition of) inflicting suffering on animals, but if so, how could it be possible to put a heavy load on an animal to bring it from place to place when the prohibition of inflicting suffering on animals applies? And if you suggest that this is indeed so, we do not say that there the rabbis follow Rabbi Yose the Galilean and are of the opinion that one must unload (an animal that is carrying) a load that it cannot carry for are we dealing with evil people? We also say in Shabbat 106b that Rabbi Yose says that the one who wants to neuter his rooster

> should remove its crest, and now it is decided that it is forbidden because of the prohibition of inflicting suffering on animals. We also say in Hagigah 14b that they asked Ben Zoma about neutering a dog. It appears that they approved it ab initio, and now you could say that it is permitted despite (the prohibition of) inflicting suffering on animals. Do not object to me what is said in Hullin 7b about Rabbi Pinhas ben Yair's statement about hamstringing being inflicting suffering on animals, because in that case it was not done for his use or prettification but rather to prevent them from harming (people), a type of harm that is not so common, and it is obvious that our holy Rabbi would not raise an animal that would harm, just as we read in Bava Kamma 15b: How do we know that a person should not raise a dog in his home? Scripture says, 'Do not place bloodguilt upon your house.'" Rather Rabbi Pinhas ben Yair was stringent because of his piety. From these proofs, it is somewhat clear that the prohibition of inflicting suffering on animals does not apply, except that Jews are wary and refrain (from doing so). It is possible that the reason is that they do not want to be cruel to creatures, fearing that they might receive a punishment for this (behavior), just as we find in Bava Metzia regarding our holy Rabbi and that calf that put its head under his hem, when Rabbi said: "Go, for it was for this that you were created." Even though there is absolute permission to slaughter a calf for consumption, (Rabbi) was punished and suffered because of this (incident). After (I wrote this), I was told that in the rulings of RI[23] in chapter one the prohibition of inflicting suffering on animals does not apply except where there is no benefit, and that is what is above.[24]

Isserlein writes that while the cases in the Talmud evaluating whether an act is subject to the prohibition of cruelty provide some evidence that the prohibition is not to be taken into account when an act serves human necessity, Jews[25] nonetheless refrain from doing so because such actions might constitute cruelty. Isserlein incorporates the issue of cruelty because he believes that plucking feathers did not constitute a violation of צער בעלי חיים and therefore he has to offer another reason for not plucking feathers from live geese. The principle of not behaving cruelly originates in the personal piety of an individual, whether Rabbi Pinhas ben Yair or other Jews, who scrutinize their behavior above and beyond the norm and try to inculcate certain character traits.

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[23] By saying that he was told about this opinion, rather than citing it himself, Isserlein makes it clear that he has not read the source personally. The modern editor of *Terumat ha-deshen* cannot identify this source (Shemuel Avitan, ed.; *Terumat ha-deshen* [Kiryat Tsanz: n.p., 1990], p. 367).

[24] *Terumat ha-deshen*, pesakim 105.

[25] While Rabbi Isserlein uses the term העולם, he means "Jews" because all his cases refer to the behavior of Jews (personal communication of Rabbi David Golinkin).

While צער בעלי חיים is counterbalanced by the competing principle of צורך אדם, human necessity; the balance can be shifted by the prohibition of אכזריות, cruelty. The limitations on צער בעלי חיים can be circumvented by the prohibition of אכזריות because the prohibition of אכזריות focuses on the human being who causes pain to an animal and how this cruel behavior changes the perpetrator for the worse. צער בעלי חיים measures the pain suffered by an animal that can be negated by the benefit to human beings, whereas the prohibition of אכזריות prevents cruel behavior from becoming a normative form of behavior for a human being.

The conflict of the principles of צער בעלי חיים and צורך אדם and its resolution by the prohibition of אכזריות are demonstrated most acutely in a number of situations, in the course of which human beings may become inured to suffering.[26] Rabbi Yaakov Reischer (1670-1733, Prague) writes about the case of an experimental medicine that is given to animals to check its side effects:

> ודאי להלכה למעשה נ"ל ברור כם"ש דאין חשש איסור דבל תשחית או צער ב"ח כל שיש לו צורך בו ומותר לעשות אפילו לכתחלה אף שסיים רם"א שם בא"ה ס"ס ה' במריטת נוצת שהעולם נמנעים

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[26] A frequent example of this (although not limited to this case) can be found in medical experimentation, which has increased astronomically in recent times. Poskim have affirmed its urgency in spite of the toll on the animals used in the experiments; at the same time, they have expressed reservations about what experimentation does to the experimentor. For a review of recent opinions, see A. S. Abraham,"Nisyonot refuiyim be-va'alei ḥayyim uv-nei adam," *Assiya* 1986, 18-23; J. David Bleich, *Contemporary Halakhic Problems* (New York: Ktav, 1989), 3.217-236; A. Hafuta, "Be-din tza'ar ba'alei ḥayyim le-tzorkhei refu'a," *Noam* 4 (1961), 223-225; Yehiel Weinberg, *Seridei esh*, part b, number 91; Eliezer Waldenberg, *Tzitz eliezer*, part 14, number 68. The majority of respondents believe that human need negates the prohibition of inflicting suffering on animals. However, it is important to note the case that they are treating, the use of animals in medical experimentation, a type of case in which there is no substitute for the animals. Furthermore, even this case comes with reservations. Reischer deliberately points out that the act of giving the animal the medicine that may later harm the animal is not harmful when the medicine is consumed. Contemporary poskim also argue that experiments should be done in such a way as to lessen the suffering of the animals involved in experiments. See Bleich, 3.236; Abraham, 91; Waldenberg, part 14, number 68, at end. Natan Zvi Friedman argues that this principle is not to be applied in cases of medical experimentation because such experiments benefit all human beings, whereas cruelty to animals that benefits a single individual would be forbidden ("Nissuiyim," 194).

משום אכזריות היינו דוקא במריטת נוצה שעושה מעשה בידים והעוף מרגיש מאוד הצער בשעת כל מריטה ומריטה משא"כ בנדון שלפנינו של השואל שאינה מרגשת כלל צער בשעת אכילה ושתייה זאת רק שאח"כ גורמות חולי ומכאוב והוא לרפואת אדם נ"ל פשוט דאין כאן חשש איסור אפילו ממדות חסידות נ"ל הק' יעקב:

It is certain that in practical halakhah it appears that there is no concern about the prohibition of wanton destruction or of inflicting suffering on animals. As long as the act is necessary (for human beings), such an act is permitted ab initio even though Rabbi Moshe Isserles concluded in O.H. 60:5 with regard to plucking (feathers) that everyone refrains (from doing so) because of cruelty, specifically in regard to the plucking of feathers which is done by hand, when the fowl feels the pain intensely as each feather is plucked, which is not the case before us in which the animal does not feel anything at all when eating or drinking (a medication) but may later if (the medication) causes illness or pain, (as a side-effect of) a medication for human beings. It seems to me obvious that there is no hint of a violation even for considerations of piety.[27]

Because the act of giving the medicine does not cause pain to the animal, Reischer argues that giving an experimental medicine to animals to check its side-effects would not constitute a case of אכזריות. The prohibition of אכזריות comes into effect when a person intentionally causes an act in which the animal feels the pain acutely.

Rabbi Mordecai Yaakov Breisch (1896-mid-1970's, Zurich) argues against the view that inflicting suffering is permitted in any case of human need by prioritizing the prohibition of אכזריות. First, he dismisses the claim that since human being are permitted to use animals, they are thereby permitted to use them as they wish, with the words:

... דחרישה בדרך הרגילה אין לה צער,והעיקר אנו דנין אם אנו רואין שיש לבע"ח צער, אי מותר לצורך, אבל סתם עבודה ודאי לא מקרי צער.

For plowing done in the regular way does not cause suffering, and the main point is that we rule that if we see that the animal is suffering, it is not permitted for human need, but regular (agricultural) work (done by animals, e.g., plowing) is definitely not to be considered as suffering.[28]

Breisch argues that just because plowing is not considered a violation of צער בעלי חיים does not mean that every activity for the sake of human need is permitted; rather, while regular agricultural

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[27] Jacob Reischer, *Shvut yaakov*, part III, number 71. (The numbering follows that of the 1992 Tel Aviv edition).

[28] Ḥelkat Yaakov, H. M., 34.

functions provided by animals is not a violation, we must determine whether other activities might constitute a violation and not be permitted.

Breisch argues that cruel behavior is prohibited because Jews must adopt certain character traits:

> דאכזריות שהוא ממדת חסידות, על שם מאמר חז"ל דישראל צריך להיות בו המדות רחמנים ביישנים וכו'
>
> For (the prohibition of) cruelty is a character trait of piety, based on the saying of the sages that a Jew must have the traits of compassion and humility.[29]

Breisch reviews the prooftexts that earlier poskim have offered to show that human necessity trumps the prohibition of inflicting suffering on animals and laments that none of them is solid. He brings his *teshuvah* to a close by concluding that we must rely on the two best proofs available:

> העולה לנו מכל הנ"ל דעפי"ד ודאי מותר לגרום צעב"ח על ידי נסיונות בשביל חקירות מדעיות ולחכמת הרפואה - אבל עף"י חסידות להנצל ממידת אכזריות, ודאי אסור כפסק הרם"א אע"ז סוסי' ה' לענין למרוט נוצות חיות, ודוקא בשחיטה מותר בסי' כ"ד ביו"ד משום דאי"א בע"א, אבל משום צורך אסור משום אכזריות...אבל עפי"ד ודאי מותר.
>
> What we can conclude from what is analyzed above is that according to law, it is permitted to inflict suffering on animals in scientific and medical experiments -- but for the reason of piety to avoid cruel behavior, it is forbidden according to the ruling of Rabbi Moshe Isserles in Even ha-Ezer 5.14 in the case of plucking feathers (from) live (geese). (Inflicting suffering) is necessarily permitted in slaughter, according to Yoreh Deah 24 because it is impossible to do otherwise. But in (a situation of) other need, it is forbidden because of (the consideration of) cruelty...However, as a matter of law, it is permitted.[30]

Breisch therefore forbids certain acts because he believes that it inculcates cruelty in a person's character; otherwise, it would be permitted because human necessity trumps the suffering of animals.[31]

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[29] Ḥelkat Yaakov, H. M., 34.

[30] Ḥelkat Yaakov, H. M., 34.

[31] In Breisch's collection of teshuvot is printed a teshuvah of Yehiel Yaakov Weinberg (1886-1966, Germany, Switzerland) immediately after Breisch's own teshuvah. (Ḥelkat Yaakov, H. M., 35). Weinberg takes issues with some of Breisch's points and in his conclusion argues that piety is a matter for an individual to assume in his own life but not to impose on others. Refraining from

This innovation, אכזריות, the principle of avoiding cruelty, provides a new basis on which to ban harsh treatment of animals. While many hold that human necessity alone nullifies the prohibition of inflicting suffering on animals, avoiding cruelty can serve as an alternate reason for banning the harsh treatment of animals, a reason that is not nullified by the consideration of human need.[32]

The power of the principle of avoiding cruelty is intensified when we consider the cases to which it is applied. It is applied to the casual use human beings would make of animals, not to the extraordinary case of animal experimentation. The way we use animals has changed dramatically in the past century. Utilizing animals for transportation and agricultural labors has basically disappeared in the Western world, while the industrialization of food animals has developed. The use of animals in medical and biological research has increased astronomically. Animals are used in the development of cosmetics. No doubt that the widespread use of animals for transportation

medical experiments because of a strigency an individual might take on in his own behavior is incorrect. Medical experimentation should, therefore, be permitted, according to Weinberg, without any reservations. Breisch did not include a response to Weinberg's criticisms. We can only speculate whether he changed his opinion to agree with Weinberg or chose to let the matter stand as a dispute. It is possible that he did not even see Weinberg's criticism and that an editor included Weinberg's teshuvah in Breisch's collection of teshuvot.

[32] The Noda Bihudah, Ezekiel Landau (1713-1793; Opatow, Poland; Prague), in his famous *teshuvah* on hunting argues that hunting that involves killing an animal does not constitute a violation of the prohibition of inflicting suffering on animals, but tormenting an animal and intending to keep it alive does (*Noda bihudah tinyana*, Yoreh Deah, 10). The process of killing, whether by *shehiṭah*, knife or gun, is not a violation of the prohibition, but causing an animal pain not for the sake of slaughter is. Landau ultimately concludes that while hunting is permitted according to law, it is unseemly because only the worst sorts of people engage in it and it is ultimately prohibited by law because participating in hunting puts a person in danger of attack by wild animals. He allows only those who hunt to make a living to pursue it because putting oneself in danger to make a living is permitted. This distinction could serve as another precedent/principle buttressing the prohibition of exceptionally cruel treatment of animals. While the ultimate goal is the slaughter of these animals, it is only the immediate steps leading to slaughter that fall under this penumbra of exemption. Tormenting an animal for months until it is slaughtered, it would appear to me, does not.

and agricultural tasks inspired poskim to rule that using animals for financial gain was justified without question.

So far, we have analyzed the scope of the prohibitions regulating human behavior towards animals. Now, we will consider the realities of the raising of veal calves in our time.

The Forcefeeding of Geese in Israel

An important precedent in considering the raising of veal calves is the case of the forcefeeding of geese in order to produce *pate de foie gras*. While there is no production of kosher *pate de foie gras* in the United States, it was produced in Israel until recently. Indeed, Israeli production served both the kosher[33] and non-kosher markets, and Israel was one of the top producers of *pate de foie gras* in the world, ranked third.

After the Cruelty to Animals Law was enacted in Israel in 1994, the Ministry of Agriculture issued regulations regarding the rearing of geese so that production was to be limited to farms already force-feeding geese and limitations were placed on which geese can be force-fed and on how the force-feeding was to take place. However, the Supreme Court of Israel issued a ruling on August 11, 2003, declaring the force-feeding of geese for the production of *foie gras* to be illegal because it violated the Cruelty to Animals Law.[34] While the Supreme Court of Israel is surely not a halakhic authority, the members of the court based their opinions on a halakhic principle, צער בעלי חיים, in this case.

Both the majority and minority opinions agree on the critical importance of the prohibition of inflicting suffering on animals. Justice Grunis writes:

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[33] Force-fed geese have been certified kosher, despite the objections of many poskim. There has been a long-standing prohibition of forcefeeding because of the injuries inflicted on them during forcefeeding and the acknowledgment by rabbis of the complexity of checking whether these injuries render the geese unfit for consumption. See Eliezer Waldenberg, *Tzitz Eliezer*, part 11, section 49; part 11, section 55, appendix; part 12, section 52.1.

[34] HCJ 9232/01, *Noach v. The Attorney General*.

> The relationship between humans and other animals has been the focus of much public interest in recent decades. This subject raises a number of different questions and dilemmas. The question, from a moral perspective, is whether, and to what extent, animals should serve the needs of men. On one extreme we have the view, unpopular today, which argues that, as the most important and advanced creature on the planet, humans have the right to do anything they wish to other creatures. On the other extreme is the belief that animals, or at least sentient beings, are the legal equals of human beings; according to this view, there should be no animal experimentation. The third view takes a middle ground, accepting neither of these two extreme positions. Rather, it claims that humans should be considerate of animals, and take their welfare into account. In other words, it rejects the first, purely utilitarian view of animals, according to which humans can do whatever they wish to animals. Instead, the third position argues that the use man makes of animals should be restricted, with the aspiration of gradually improving their situation. It seems that the Hebrew phrases "cruelty to animals" (*tza'ar ba'alei haim* [sic]), borrowed from Jewish religious law, is equivalent to what is currently referred to as animal welfare...Clearly, the status that animals in our society currently enjoy is not the same as it was in the past. As we shall see, Israeli legislation has given expression to this difference in recent years. The problem of the present case has unique characteristics. This is not a case of animal experimentation, or of the use of animals as beasts of burden, not is it a case of using animals for purposes of entertainment, or of animals as pets. This is a case of raising animals in a certain way, so that eventually they -- or to be precise, one of their organs -- will serve as food for humans. We emphasize this element since it differentiates this case from previous ones. In addition, our ruling in this case may have ramifications for other agricultural methods used to raise animals for human consumption.

The case of forcefeeding of geese presents a case in which conflicting interests, human need and the prohibition of inflicting suffering on animals, must be balanced.

In the case of geese, they are forced to ingest a large amount of high calorie food that exceeds their physical needs. In the force-feeding process, a tube is inserted down the bird's mouth and gullet by which food is forced into the goose, causing the animal's liver to contract a degenerative disease and grow ten times its normal size.

Both the majority and minority opinions agree that the force-feeding of geese causes great suffering. However, they disagree on 1) whether the distinction between a basic food and a luxury food outweighs the general need to produce food, and 2) when a transition period needs to be established.

The majority opinion argues that while the regulations on the industry were clearly intended to prevent the suffering of the geese, the goal of preventing suffering has not been

achieved. Even the more limited goal of reducing suffering could not be reached in the case of forcefeeding. The method itself simply cannot be reformed. Furthermore, the majority opinion argues, the harm suffered by the geese outweighs the benefit of the production of *foie gras*. A luxury food is different from a basic food, especially when its production inflicts grave suffering on animals.

The minority opinion recognized that while *foie gras* was not a basic food but rather a gastronomic delicacy, the Protection of Animals Law explicitly directs that agricultural needs, defined as the interests of farmers and the general public in food production, be taken into account and that the means, forcefeeding, are justified by the ends, the production of food.[35] Furthermore, the prohibition of forcefeeding would eliminate an industry overnight that has been in existence for four decades in Israel and that received the encouragement of the government because there is no other way of producing *foie gras*. The minority opinion, noting that the regulations issued by the Ministry of Agriculture in 2001 permitting the force-feeding of geese would expire in 2004, urged that new regulations establish a transitional period for the *foie gras* industry so that farmers would not have their livelihood wiped out. The minority opinion rejected the distinction between basic and luxury food yet nonetheless appeared to recognize that the end of forcefeeding was in sight.

The practical consequences of the divergence between the majority and minority opinions was the timing of a transition period. The majority opinion prohibited the force-feeding of geese while suspending its decision so that a transition period could be established, whereas the minority opinion did not prohibit force-feeding but urged that a transition period be established so that farmers can find another means of livelihood.

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[35] The minority opinion of the High Court of Justice also argued that the force-feeding of geese should be allowed to continue according to the Ministry of Agriculture regulations because a commission established by the European Union to investigate the force-feeding of geese recognized that the practice caused suffering to the animals but did not recommend its abolition.

The implementation of the High Court of Justice's decision was delayed until March 31, 2005. Since then, there has been a tug-of-war between the parties involved. The Court ordered implementation of its decision, the legal advisor to the Minister of Agriculture then gave notice that violators will not be prosecuted, the Veterinary Service declared and then rescinded a decision not to give permits to deliver geese to the farmers who force-feed them, and animal welfare societies made formal appeals to the Court and to the Ministry of Agriculture. The Ministry of Agriculture announced that it would implement the Court decision as of April 15, 2006, from which time the force-feeding of geese would no longer be permitted in Israel, and it has done so.[36]

In the High Court of Justice's decision, there are references from time to time to the case of veal calves. Veal is defined as a delicacy, like *foie gras*, not a basic food, and as a food produced by keeping the animals in special conditions. It is critical to note that unlike the production of *foie gras*, the condition of veal calves can be changed and the industry remain.

Veal and the Raising of Veal Calves

There are currently[37] three[38] farms in Israel on which veal calves[39] are raised, and a number of complaints reached the Ministry of Agriculture and the police in Israel regarding the intensive confinement and extremely inadequate nutrition on these farms as well as the stereotypical stress behavior exhibited by the calves. Each farm houses 3400 calves at a time, with the calves living at the farm for four months (aged one month to five months). Dr. Hagai

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[36] It should be noted that while the forcefeeding of geese is now prohibited in Israel, the raising of geese without forcefeeding continues.

[37] As of November 2007.

[38] There was a fourth farm in Kefar Yehoshua, but it apparently has gone out of business.

[39] The meat from these calves is called בְּשַׂר חָלָב in Hebrew.

Almagor, the officer in charge of the Animal Welfare Act, visited the farms, De Levi farm in Kefar Yehoshua, De Levi farm in Mehola in the Jordan Valley, and the Licht farm in Bozrah; he reported on the conditions and took blood samples from the calves for analysis.[40] He reported that the calves were imported at the age of only a few weeks, kept in conditions that restricted their movements, fed only a milk substitute and given restricted amounts of water. They were not given any solid food, which had a negative effect on the normal development of their digestive system, while the milk substitute caused them to suffer from severe anemia and the lack of water caused diarrhea. The farms in Kefar Yehoshua and Mehula kept the calves in narrow, individual cages that during most of the process prevented them from turning around and eventually prevented them from lying down or getting up. These cages also prevented the animals from having any contact with other calves, even preventing them from seeing another calf, causing unreasonable social isolation. Dr. Almagor's report recommended that Israel adopt the standards of the European Union.[41]

This report led to the appointment in April 2002 of a special committee consisting of two officials from the Cattle Division of Agricultural Ministry, an official of the Veterinarian Service, and a lawyer from Anonymous for Animals, all of whom were appointed by the head of the Veterinarians Service. This special committee issued its report on standards for the raising of veal calves in Israel in order to comply with the requirements of the law against cruelty to animals without destroying veal production in Israel in a written statement dated June 18, 2002.[42] The

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[40] See the letter sent by Dr. Almagor to Dr. Oded Nir, which is appendix A.

[41] The standards are the European Union may be found at <europa.eu/eur-lex/en/consleg/pdf/1991/en_1991L0629_do_001.pdf>, <eur-lex.europa.eu/LexUriServ.do?uri=CELEX:31997L0002:EN:HTML>, and <eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997D0182:EN:HTML>.

[42] A copy of this report is in Appendix B. A clarification from the chair of the special committee to the director of the veterinary service is found in Appendix C.

members of the committee visited the three farms in Israel where veal calves are raised and spoke at length with the farmers. They found many deficiencies, and they recommended that changes be made in veal husbandry in eight areas: 1) iron intake of veal calves should be increased in order to raise the level of hemoglobin in their blood; 2) isolation of calves should be greatly limited; 3) calves should be given sufficient space that would allow them to lie down, rest, stand up, and lick themselves/groom themselves; 4) calves should not be limited to consuming milk, but should be allowed a mixed diet; 5) water for drinking should not be restricted; 6) the living quarters of the calves should have adequate ventilation; 7) the living quarters should be lit for at least as many hours of daylight as there are; 8) appropriate bedding should be made available. The members of the committee gave specific technical details as to what should be done to fulfill these recommendations. These recommendations are similar to the European Union directive.

The Ministry of Agriculture has not yet implemented all these standards, but in August 2005 it started to instruct the farms in Israel to provide sufficient water to the calves.

Unlike Israeli and continental law, the law of the United States generally does not regulate the treatment of farm animals. Although U.S. Federal laws regulate the treatment of animals,[43] they do not apply to farm animals while they are on the farm, and while each state does have a code of animal welfare, it is rarely, if ever, applied to farm animals.[44] Nonetheless, a few farms in the United States do allow veal calves to engage in natural behaviors and do not restrict their movements.[45] However, animals from these farms are very rarely utilized by kosher producers,

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[43] For example, the Humane Methods of Slaughter Act applies during slaughter, and the 28-Hour Law regulates rail transport (although nearly all farm animals are transported by truck).

[44] A ballot initiative in Florida was passed that banned gestation crates for pregnant pigs, and the state of California passed a law in 2004 that bans the force-feeding of geese for the production of foie-gras. A number of other states have bills pending. In Arizona in 2006, voters passed a ballot initiative banning the intense confinement and social isolation of veal calves.

[45] See for example <http://www.certifiedhumane.org/press.html#092805>.

and less than 10% of veal calves are currently raised under these conditions[46]. In the past decades, two rabbis have addressed the case of veal calves in the United States, Rabbi Moshe Feinstein and Rabbi David Golinkin.

Rabbi Moshe Feinstein starts his teshuvah by assessing the general health of the animals and its impact on accepting them as kosher.[47] He notes that veal calves are not only force fed but also are housed in such conditions that they cannot even move a few steps and are not fed with a diet appropriate for calves. They have not consumed their mothers' milk but are fed fattening liquids that are not beneficial to them. This makes them ill and in need of medication. According to the information that Feinstein was able to gather, strict shoḥetim approve only 15% of slaughtered animals, while lenient shoḥetim approve 44-45% of such calves. All agree that the majority of such calves cannot be assumed to be kosher, due to problems with their lungs. Rabbi Feinstein argues that there are probably deformities with their intestines as well. The health issues of these animals make their kashrut dubious.

Feinstein also considers whether the prohibition of inflicting suffering on animals applies to the case of veal calves. He notes that while causing pain to animals is permitted for human need, it is not permitted to cause them pain needlessly even if it brings profit. Here, Feinstein struggles to clarify this issue. He appears to argue that cruelty in and of itself that yields profit is forbidden.

> אבל לא לצערם בעלמא שזה אסור אף אם יהיה לאחד הרוחה בזה, כגון שנכרי אחד רוצה להרוג או לחבול באיזו בהמה שכעס עליה שודאי אסור אף שמשלם לו שכר בעד מעשה הרע הזה דלהרוחה שמותר הוא לאכילה אף של אחרים ואף של נכרים, אבל להרוג ולחבול בשביל הרצון דאיזה רשע אחד אסור אף שהוא עושה להרוחה דיליה, מחמת שמשלם לו בעד האכזריות שאמר לו לעשות, דבשביל מה שאירע לאחד שיש לו הרוחה מהריגת וחבלת בע"ח אסור אף שהוא להרוחה לצורך האדם אלא דוקא בדבר שדרכן דאינשי בכך. ומהאי טעמא אסור לאחד שמצטער מאד על מיתת אביו להכות את בהמתו מאיסור דצער בע"ח ואף לא לשרוף ולאבד לכבוד אביו שום דבר אף שהוא מכבד את אביו הרבה והצער אצלו גדול מאד והחבלה בבהמתו ובאבוד ושרפת כליו ישכך חמתו וצערו מזה כדמצינו ברש"י שבת דף ק"ה ע"ב שפי' על קורע בחמתו דנחשב מתקן משום דקעביד נחת רוח ליצרו שהוא משום שמשכך את חמתו, ום"מ אסור כדאיתא שם משום דאין זה מצורכי האדם שהותר

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[46] American Veal Association resolution on housing.

[47] Igrot Moshe, E.H., part 4, end of number 92.

לצער בע"ח אף כשלא מזיקן והורגן ממש, וכן אין זה מצורכי האדם לעשות לשכך יצרו וחמתו בשרפת ואבוד חפצים וכלים, ונחשב זה השחתה בעלמא שלא לצורך הנאת האדם ורפואתו וכדומה שהאדם רשאי לעשות בחפציו. עכ"פ חזינן שלא כל דבר רשאי האדם לעשות בבהמות שמצער אותם אף שהוא להרויח מזה, אלא דבר שהוא הנאת האדם ממש כשחיטת הבהמות לאכילה ולעבוד בהם וכדומה.

...but not to cause them pain in general, for this is surely forbidden even if there is profit in this. For example, a non-Jew who wants to kill or cause an injury to an animal because he was angry at it is definitely forbidden even though there is profit to him because of this evil act, since permissible profit is (limited to) consumption even for others and even for non-Jews.[48] However, killing or causing an injury because of a desire (to do so) on the part of this evil person is forbidden even if he causes profit for himself because he gains a profit by cruelty which (the evil person) told him to do. For the profit that happened to an individual who gained from the killing or the injuring of an animal is forbidden even though it was profit necessary for human need, except when people usually behave that way. For this reason, it is forbidden for someone in great distress over the death of his father to strike his animal because of the prohibition of causing suffering to an animal, and certainly not to burn or destroy anything in his father's honor even though he honors his father greatly and he is in great pain, and even though harming his animal or destroying and burning his possessions would alleviate his anger and pain. This is as we find in Rashi (b. Shabbat 105b), the person who rips his animal is understood as repair because he relieves his equilibrium in releasing his anger.[49] In any case, it is forbidden just as it holds there in b. Shabbat 105b because this is not included in human necessities for which causing suffering to animals is permitted even if (a person) does not harm them or kill them strictly defined. Likewise, it is not subsumed under human necessity to alleviate anger and pain by burning or destroying material objects: this would be considered wanton destruction, not needed for human benefit or medicine and the like that a person is permitted to do with his possessions. In any case, we see that a person is not permitted to do everything to animals in causing them pain even if he gains profit but only that which is directly for the benefit of people, like slaughtering them for food or to work them and the like.[50]

Here, Feinstein reaches the conclusion that inflicting suffering on animals is permitted if it is for the purpose of food or labor. Doing it for emotional venting is not permitted. The prohibition of inflicting suffering on animals, then, would not be sufficient to forbid the raising of veal calves in

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[48] Here the antecedent is "a non-Jew," but it is clear that Feinstein means "Jews or even non-Jews," extending the halakhic standard to non-Jews.

[49] Rashi s.v. הא במת דידה .

[50] Igrot Moshe, E.H., part 4, end of number 92.

the way that it is done, for food does result from this process. For Feinstein, the decisive reason is another principle altogether.

> וכן היה מותר לזונם בדברים שיותר טוב להמתיק את בשרו ולהשמין את בשרו באופן שהאינשי שיאכלו את בשרו יהנו יותר מכפי שהיתה אוכלת שחת. אבל לא בדבר שהוא רק לרמות ולהטעות את האינשי שיאכילום בדבר שגם לאינשי אינו כלום ורק לרמותם להאינשי שמזה שיראו מראה הבשר שהוא לבן ולא במראה אודם קצת שיטעו מזה שהוא בשר טוב יותר לבריאות ולהנאה וישלמו בשביל זה יותר. אף שליפות האוכלין אף שאין שום תועלת מזה בעצם היה מותר מדין אונאה כשיכירו האמת שאינו אלא יפוי בעלמא, וכשיטעו מזה לומר שהוא בשר משובח וטוב יותר להנאה ולבריאות וכדומה יהיה אסור מדין אונאה כמפורש בס"פ הזהב בב"מ דף ס' ע"ב אף כשלא יעלו יותר, אבל עשו זה כדי למשוך את הקונים לחנותו, שא"כ היה שייך להתיר באם יודיעו שאין בשר לבן זה יותר טוב ומשובח אלא שהוא יפה יותר שג"כ היו רוצים בבשר זה שהוא יפה יותר לקנות. מ"מ אסור לצער את הבהמה להאכילה דברים שאין לה הנאה מהן שהיא מצטערת באכילה, וגם הם נחלות מזה וסובלין יסורין מהחולי, שבשביל הנאה זו דיכול לרמות האינשי אסור לעשות כן מאיסור צער בע"ח מדאורייתא שלא הותר זה להאינשי לצער בע"ח.

> Likewise, it is permitted to feed them better food to sweeten or to fatten their flesh in a way that people that consume their flesh will benefit more than when (the animal) eats fodder, but not in a way that is only to swindle and mislead people that is not of value to people but only to swindle people who will see that the appearance of the flesh is white, not red, in order to make them err (thinking) that it is meat better for health and enjoyment and will pay more for this. Even enhancing food for no advantage is permitted in the regulation of *onaah* when people recognize the truth that it is only enhancement. When they err in this, (thinking) that it is meat better for benefit and health and the like, this is forbidden under the regulation of *onaah*, as explained in b. Bava Metzia 60b, even when it does not cost more. But if they did this to attract customers to a store, then it would be necessary to permit it if they would clarify that white flesh is not better but is prettier because there would be those who would want it because it is prettier. In any case, it is forbidden to feed an animal things that are of no benefit to them and cause them suffering in eating. They also become ill from this and suffer pain from illness. Because this advantage enables swindling of people, it is forbidden to do so. (Also) because of the prohibition of causing pain to animals, according to *d'oraita* law, it is not permitted to people to cause suffering to animals.[51]

The decisive reason for forbidding veal, according to Feinstein, is that the light-colored flesh of veal calves is thought by consumers to be healthy, but in fact it is not true. Those who raise these animals and sell their meat are in fact swindling consumers. Fraud and misleading the consumer are the reasons why, according to Feinstein, the raising of veal calves ought to be forbidden.

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[51] Igrot Moshe, E.H., part 4, end of number 92.

However, it is doubtful to me that Feinstein's reason is correct, that people are eating veal because they think it healthy. Rather, it seems to me that they enjoy the taste of veal.

Rabbi David Golinkin, by contrast, argues that the way in which veal calves are raised does in fact violate the prohibition of inflicting suffering on animals.[52] He holds that while the permission granted by halakhah to inflict pain on an animal for any good reason includes producing whiter meat more attractive to customers so as to increase profit, Jews have always acted לפנים משורת הדין, going beyond the letter of the law, and refrained from hurting animals. He buttresses his argument by adding that the practice of raising veal calves in this manner not only violates the prohibition of inflicting suffering of animals but violates the letter or spirit of other laws on the treatment of animals that require that animals be fed properly. This means that Jews are not permitted to raise veal calves in such a manner. Most crucially, Golinkin argues that the halakhic principle that one must not aid and abet a transgressor applies in the case of veal calves.[53] He writes, "By buying and eating veal calves raised in confinement, we encourage those who raised veal calves in this manner to continue these practices and imply that these practices are compatible with the humane tendency of *kashrut*. They are not."[54]

This teshuvah disagrees with Rabbi Golinkin's argument that any good reason justifies inflicting pain on animals. As has been demonstrated, the intense confinement, social isolation, and inadequate nutrition does violate the halakhic prohibition of צער בעלי חיים, and even for those

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[52] David Golinkin, *Responsa in a Moment: Halakhic Responses to Contemporary Issues* (Jerusalem: The Institute of Applied Halakhah at the Schechter Institute of Jewish Studies, 2000), pp. 73-77. This was originally printed in Moment Magazine in February 1993.

[53] Golinkin, pp. 75-77. Golinkin references m. Shevi'it 5:9 (= m. Gittin 5:9) as a source for this principle, acknowledging that this source refers to Jewish transgressors, but he applies this principle to the case of factory-farmed veal calves because buying such veal only promotes the use of factory farming and would lead to the conclusion that such practices are in synch with the principles of *halakhah*.

[54] Golinkin, p. 75.

halakhic authorities who argue that human need overrides the prohibition of inflicting suffering on animals, the halakhic prohibition of אכזריות prohibiting human beings from treating animals cruelly forbids it as well. This teshuvah agrees with Rabbi Golinkin's arguments that such treatment of veal calves violates other stipulations, such as requiring that animals be fed properly and that the ban must not be limited to consumption but to those who raise, sell, or purchase veal from calves raised in such a manner.

This teshuvah amplifies Golinkin's teshuvah by addressing the raising of veal calves in both Israel and the United States,[55] presenting the case of the *foie gras* industry in Israel and the Israeli Supreme Court decision based on *halakhah*, and analyzing recent efforts to improve the conditions of veal calves in Israel and the United States. Like Rabbi Golinkin's teshuvah, this teshuvah extends the prohibition beyond the farmer to the consumer, and this teshuvah extends the prohibition to those who participate in the marketing of veal. This teshuvah solidifies the basis for the prohibition by incorporating the prohibition of אכזריות and assessing how it serves to restrict what is done during medical experimentation on animals. This teshuvah delineates the conditions under which the raising of veal calves would be humane.[56] The concerns expressed in this *teshuvah* are the natural development of the rulings of the CJLS that attempt to remove the pain and suffering of the final moments of an animal's life. Jews should pay as much attention to the way in which the animal is raised as we have to the way in which it meets its end.[57]

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[55] Golinkin's teshuvah deals only with the United States, a curious characteristic since he lives in Israel.

[56] See the incorporation of the standards of the European Union in the requirements of the Israeli Ministry of Agriculture on pages 19-20 and the presentation of the the standards of Human Farm Animal Care on pages 26-27.

[57] In essays published in the Winter 2000 issue of *JTS Magazine*, Rabbi Paul Plotkin and Rabbi Arthur Lavinsky analyze whether the way animals are raised affects their status as kosher (URL = <http://learn.jtsa.edu/topics/luminaries/monograph/forum_ar.shtml>). Rabbi Lavinsky argues that we ought to make sure that the animals raised for the kosher market are raised in humane conditions, while Rabbi Plotkin argues that we must make clear that while inhumane conditions

In the past years, standards have been developed for the raising of veal calves, and there are farms that are raising animals in a humane way. The standards of the European Union are in the process of being incorporated into the changes in farming demanded of veal farms in Israel by the ministry of agriculture. In parallel in the United States, Humane Farm Animal Care (HFAC) has established a set of high-level standards in the following categories (I have included the comparison to the guidelines currently in effect recommended by the American Veal Association (AVA), a producer organization):[58]

> *Nutrition:*
>
> AVA: Calves may be fed an all-liquid milk replacer diet from birth until slaughter.[59]
>
> HFAC: All calves must be fed a wholesome diet which satisfies their nutritional needs, including fiber and iron. Calves must have access to calf starter feed or appropriate grain by five weeks of age.
>
> *Environment*
>
> AVA: Slatted floors are permitted.[60]

for raising animals are definitely forbidden, the meat from animals raised in such conditions remains kosher because the responsible party is the farmer raising the animals, not the consumer. Rabbi Plotkin also reminds us that the cost of keeping kosher is significant and that any changes made in kosher production must be made so as not to discourage people from keeping kosher. Rabbi Plotkin's concern is a significant factor that must be kept in mind. However, kosher veal is one of the most expensive kosher meat products available. The danger that removing it from the kosher market will make kosher food more expensive is slight. Rabbi Plotkin himself voted in favor of the *teshuvah* prohibiting the shackling and hoisting of animals based on the prohibition of inflicting suffering on animals.

[58] URL = <www.certifiedhumane.org/YoungDairyBeef.html> and *A Guide for Care and Production of Veal Calves* (seventh addition; n.p.: Cattlemen's Beef Board and National Cattlemen's Beef Association, 2005). The Food Marketing Institute and the National Council of Chain Restaurants have also established an advisory committee of experts who are preparing a set of standards in conjunction with the producer organizations, but these are not available to the public nor do these standards yet cover veal calves (personal communication from Karen Brown, executive vice president, Food Marketing Institute). Among those on this advisory committee are two animal science professors who have shared their expertise with the kosher food industry, Joe M. Regenstein and Temple Grandin..

[59] *A Guide for Care and Production of Veal Calves*, p. 13.

[60] *A Guide for Care and Production of Veal Calves*, p. 10.

HFAC: All animals must have access to a solid floored lying area and dry, clean bedding.

Space Requirements

AVA: For calves up to 450 lbs, minimum space recommendations for individual stalls are 26 inches wide by 66-72 inches long (11.9-13 sq.ft.).[61]

HFAC: For calves up to 180 lbs, pens must allow at least 16sq.ft. per calf. For calves over 180 lbs, pens must allow 20sq.ft. per calf.

Health[62]

AVA: Subtherapeutic antibiotics allowed.[63]

HFAC: No subtherapeutic antibiotics allowed.

Housing

AVA: Calves may be individually housed until slaughter.[64]

HFAC: After eight weeks of age, calves must be housed in group pens, with penmates of a comparable size.

Movement

AVA: Tethering is permitted.[65]

HFAC: Tethering is prohibited throughout the production system.

Transport

AVA: Transportation should be in a covered truck or trailer, particularly during extremely hot or cold weather.[66]

HFAC: Calves under five days must only be transported from the farm of birth to the raising farm in an environmentally controlled vehicle.

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[61] *A Guide for Care and Production of Veal Calves*, p. 10.

[62] Subtherapeutic antibiotics are antibiotics administered at a dosage high enough to control a disease but too low to cure or prevent the disease.

[63] No rule against the use of subtherapeutic antibiotics is found in *A Guide for Care and Production of Veal Calves*.

[64] *A Guide for Care and Production of Veal Calves*, p. 10.

[65] *A Guide for Care and Production of Veal Calves*, p. 10.

[66] *A Guide for Care and Production of Veal Calves*, pp. 24-25.

The HFAC's standards are clearly an advance over the AVA's standards in promoting a more humane level of raising veal calves.[67]

As of the writing of this teshuvah, only a few farms are raising veal calves according to the HFAC's guidelines, and it is to be hoped that more farms will adopt these standards. However, these farms are few and far between. In the rest, the raising of veal calves remains problematic.[68]

However, the veal industry in the United States has started to recognize that it can no longer ignore the demands of consumers, retail and food service organizations, and animal welfare groups. In a resolution signed in May 2007, the producer organization of the American Veal industry, the American Veal Association, recommends the conversion of the entire American veal industry to group housing by December 31, 2017 and states that currently less than 10% of the veal calves in the United States are housed in a manner that meets the animal welfare standards of consumers.

The conditions in which overwhelming majority of veal calves, more than 90% of the veal calves in the United States and at the veal farms in Israel, are raised are so awful, deplorable beyond the conditions in which other animals raised for food are kept, that the principle of צער בעלי חיים comes into effect. Even for those who believe that human necessity counterbalances צער בעלי חיים, the grievous conditions in which veal calves are raised surely constitute אכזריות, cruelty. They should not be permitted for human need because they cross the line of animal suffering. By

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[67] In all fairness, the AVA along with the National Beef Cattlemen's Association has raised standards in requiring protection for animals from extreme weather conditions when they are transported as well as in other areas. A few of the HFAC's standards may be debatable: slatted floors allow manure and urine to fall through and can be more easily cleaned through hosing, and there is no evidence for an animal's need for group pens. Not using subtherapeutic antibiotics may in fact cause an animal to suffer more if antibiotics at the proper dosage are not administered.

[68] Some farmers are experimenting with the inclusion of small amounts of grain, injections of iron, and group housing systems. However, most calves receive only milk replacer as food, and tethering and individual stalls are still the norm. (personal communication from Steve Kraut, executive director, American Veal Association)

banning veal raised under these conditions, we hope to promote the adoption of humane standards for the raising of veal calves. We are encouraged by the directives of the Israeli Ministry of Agriculture in concert with the Veterinarians' service and by the resolution of the American Veal Association. However, we are concerned that the directives to Israeli farmers who raise veal calves have not been put into effect and that the conversion of the American veal industry is projected for a date more than a decade hence. We strongly urge that the directives to the Israeli veal industry be put into effect and that the conversion of the American veal industry not be delayed. We strongly insist that calves raised in veal production be given housing that at a minimum allows them to stand up, lie down, turn around and groom themselves, housing in groups, and a mixed diet that satisfies their nutritional needs. At this time, however, since the veal industry in Israel and more than 90% of the veal farms in the United States do not follow these practices, we rule that veal may not be sold, purchased or eaten unless it can be determined that animals from which it comes were raised under humane standards. We recommend that the Committee on Jewish Law and Standards check after January 1, 2018 as to whether the humane standards have been implemented in order to provide an update to this teshuvah.

Summary

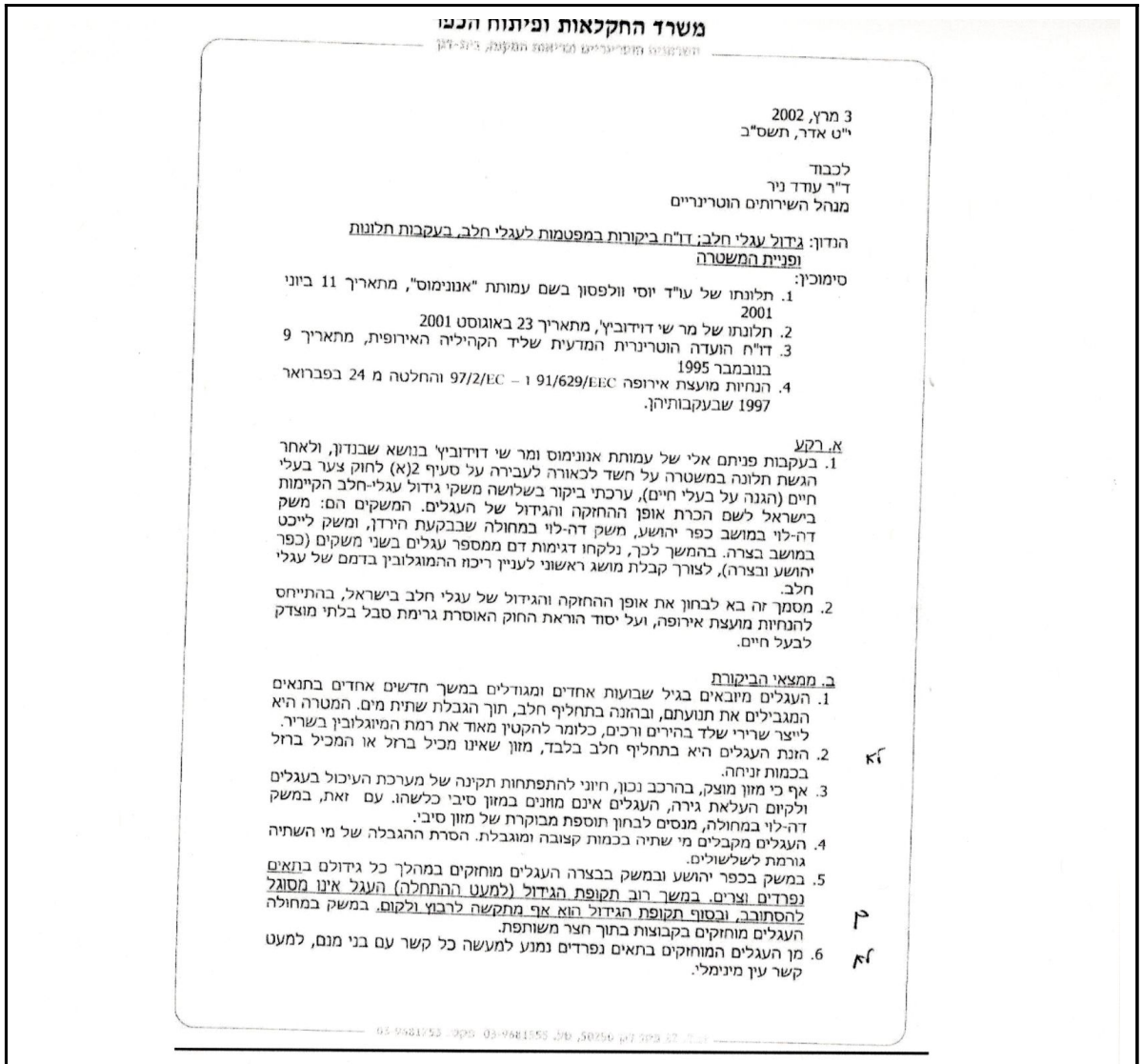
Veal calves are raised in appalling conditions in which their movement is severely restricted and their diet limited, among other severities. According to the biblical sources, Jews are allowed to utilize animals as long as the animals are treated with compassion. The classical rabbis regulated the treatment of animals under צער בעלי חיים, the prohibition of inflicting suffering on animals. This principle was further developed in later halakhah, extending to regulate the feeding of animals, the use of animal in agricultural work and transportation, and sheḥiṭah. In response to the claim that human necessity overrules צער בעלי חיים in every situation, Rabbi Israel Isserlein, followed by the Rabbi Moshe Isserles, rules that אכזריות, cruel behavior toward animals, is

forbidden, even when there might be benefit to human beings. Jews should be cultivating the character trait of compassion, not cruelty. The Israeli Supreme Court has banned the force-feeding of geese based on the prohibition of צער בעלי חיים, and the Ministry of Agriculture in Israel is in the process of implementing standards of care for veal calves in Israel similar to those of the European Union, providing to calves sufficient iron, a mixed diet not limited to milk, water for drinking, space to allow calves to lie down, stand up, and groom themselves, appropriate bedding, and a restriction on the isolation of calves. In the United States, Human Farm Animal Care has prepared a set of standards under which animals can be raised humanely, including a mixed diet that satisfies their nutritional needs, 20 square feet of space for calves over 180 lbs, dry and clean bedding, and group pens after 8 weeks. The American Veal Association has recommended to its members that the entire industry in the United States convert from individual stalls to group housing by December 31, 2017 in response to the animal welfare concerns of consumers. We strongly urge that the Ministry of Agriculture directives and the recommendations of the group housing resolution of the American Veal Industry be implemented.

פסק

We rule that only veal from animals raised under humane standards can be sold, purchased, or consumed. Humane standards for the raising of veal calves include sufficient space for calves to lie down, stand up, turn around, and groom themselves, proper nutrition in a mixed diet appropriate for young calves with sufficient iron, dry, clean bedding, and limited isolation of calves.

Appendix A



משרד החקלאות ופיתוח הכפר

3 מרץ, 2002
י"ט אדר, תשס"ב

לכבוד
ד"ר עודד ניר
מנהל השירותים הוטרינריים

הנדון: גידול עגלי חלב: דו"ח ביקורות במפטמות לעגלי חלב, בעקבות תלונות ופניית המשטרה

סימוכין:
1. תלונתו של עו"ד יוסי וולפסון בשם עמותת "אנונימוס", מתאריך 11 ביוני 2001
2. תלונתו של מר שי דוידוביץ', מתאריך 23 באוגוסט 2001
3. דו"ח הועדה הוטרינרית המדעית שליד הקהיליה האירופית, מתאריך 9 בנובמבר 1995
4. הנחיות מועצת אירופה 91/629/EEC ו – 97/2/EC והחלטה מ 24 בפברואר 1997 שבעקבותיהן.

א. רקע

1. בעקבות פניתם אלי של עמותת אנונימוס ומר שי דוידוביץ' בנושא שבנדון, ולאחר הגשת תלונה במשטרה על חשד לכאורה לעבירה על סעיף 2(א) לחוק צער בעלי חיים (הגנה על בעלי חיים), ערכתי ביקור בשלושה משקי גידול עגלי-חלב הקיימות בישראל לשם הכרת אופן ההחזקה והגידול של העגלים. המשקים הם: משק דה-לוי במושב כפר יהושע, משק דה-לוי במחולה שבבקעת הירדן, ומשק לייכט במושב בצרה. בהמשך לכך, נלקחו דגימות דם ממספר עגלים בשני משקים (כפר יהושע ובצרה), לצורך קבלת מושג ראשוני לעניין ריכוז ההמוגלובין בדמם של עגלי חלב.
2. מסמך זה בא לבחון את אופן ההחזקה והגידול של עגלי חלב בישראל, בהתייחס להנחיות מועצת אירופה, ועל יסוד הוראת החוק האוסרת גרימת סבל בלתי מוצדק לבעל חיים.

ב. ממצאי הביקורת

1. העגלים מיובאים בגיל שבועות אחדים ומגודלים במשך חדשים אחדים בתנאים המגבילים את תנועתם, ובהזנה בתחליף חלב, תוך הגבלת שתית מים. המטרה היא לייצר שרירי שלד בהירים ורכים, כלומר להקטין מאוד את רמת המיוגלובין בשריר.
2. הזנת העגלים היא בתחליף חלב בלבד, מזון שאינו מכיל ברזל או המכיל ברזל בכמות זניחה.
3. אף כי מזון מוצק, בהרכב נכון, חיוני להתפתחות תקינה של מערכת העיכול בעגלים ולקיום העלאת גירה, העגלים אינם מוזנים במזון סיבי כלשהו. עם זאת, במשק דה-לוי במחולה, מנסים לבחון תוספת מבוקרת של מזון סיבי.
4. העגלים מקבלים מי שתיה בכמות קצובה ומוגבלת. הסרת ההגבלה של מי השתיה גורמת לשלשולים.
5. במשק בכפר יהושע ובמשק בבצרה העגלים מוחזקים במהלך כל גידולם בתאים נפרדים וצרים. במשך רוב תקופת הגידול (למעט ההתחלה) העגל אינו מסוגל להסתובב, ובסוף תקופת הגידול הוא אף מתקשה לרבוץ ולקום. במשק במחולה העגלים מוחזקים בקבוצות בתוך חצר משותפת.
6. מן העגלים המוחזקים בתאים נפרדים נמנע למעשה כל קשר עם בני מנם, למעט קשר עין מינימלי.

Appendix B

משרד החקלאות ופיתוח הכפר
שירות ההדרכה והמקצוע
האגף לבעלי חיים
המחלקה לבקר

שה"מ

18/06/02

דו"ח הועדה לנושא "גידול עגלי חלב במשק הישראלי"

חברי הועדה - עו"ד יוסי וולפסון (אנונימוס), דר' מישל בלאיש (השרותים הוטרינריים), דר' רונן מלצר (שה"מ), דר' ישראל פלמנבאום (שה"מ).
כיו"ר הועדה שימש ד"ר ישראל פלמנבאום , מנהל המח' לבקר בשה"מ משרד החקלאות ופיתוח הכפר.

הועדה מונתה על ידי ד"ר עודד ניר מנהל השרותים הוטרינריים בישראל במטרה להציע דרכים להתאמת גדול עגלי החלב בישראל לדרישות חוק צער בעלי חיים.

מטרת הועדה בעבודתה להמליץ על הנהלים לגידול עגלי חלב בישראל תוך שמירה על חוק צער בעלי חיים, כל זאת תוך הבנה כי יש לשמור על קיומו של ענף גידול זה המספק מוצר מזון אשר יש לו דרישה בשוק והמהווה מקור פרנסה לחקלאים בישראל.
במסגרת עבודתה נפגשה הועדה שלוש פגישות , קיימה סיור בכל משקי גידול עגלי החלב הנמצאים במחולה, כפר יהושוע ובצרה ושוחחה ארוכות עם המגדלים.
המלצות הוועדה נעשות בהתיחסות לתקנות בנושא שפורסמו ע"י האיחוד האירופי, כאשר נלקחים בחשבון התנאים הקיימים בישראל.

בעבודתה מתייחסת הועדה לנושאים היחודיים לעגלי חלב על פי הסעיפים הבאים:

1. רמת המוגלובין בדם
2. בידוד בע"ח
3. שטח מחייה לעגל
4. הזנה

משרד החקלאות ופיתוח הכפר, האגף לבע"ח, ת"ד 28, בית דגן, מיקוד : 50250
טלפון : 03-9485311, פקס : 03-9485614

5. שתיית מים
6. אוורור
7. אור
8. מצע לבע"ח

להלן המלצות הועדה בנושאים השונים:

1. רמת המוגלובין בדם

הועדה מצביעה על הצורך בקיום של רמת מינימום של המוגלובין בדם לעגל של 7.3 גרם לדציליטר. בכדי להגיע לרמות אלה יש להבטיח קיום של לפחות 50 מג' ברזל לקג' חי' מזון, או מתן בדרך אחרת (הזרקה למשל).

אופן הבדיקה יכול להיעשות באחת משתי דרכים:

א. בדיקת תכולת הברזל במנת עגלים (אבקת חלב ומזון יבש) – הבדיקה תעשה על ידי המחלקה לאיכות מיספוא מספר פעמים משך השנה.

ב. בדיקה של רמת ההמוגלובין בדם – הבדיקה תעשה ל 5% מהעגלים בגיל 12 עד 24 שבועות, לפחות כל 23 שבועות. הבדיקה תעשה על ידי אנשי השרותים הוטרינריים ובמעבדותיהם.

מוצע על ידי הועדה כי מנהל השרותים הוטרינריים יחליט על נוהלי הבדיקות ומימונן.

2. בידוד בע"ח

מומלץ כי עגלים עד גיל חודשיים או עד משקל של 90 קג' ניתן להשהות בתאים מבודדים. מעבר לתחומי זמן אלה ישארו העגלים בבדוד רק לפי הנחיית רופא. בהגדרת בידוד – הכוונה למניעת מגע פיזי בין עגלים. יש לאפשר קשר ראייה בין העגלים.

מומלץ כי עגלים בריאים מעל גיל חודשיים או משקל של 90 קג' יוחזקו בקבוצות על פי התנאים הבאים:

א. מינימום של ארבעה עגלים בקבוצה.

ב. קבוצה הקטנה מארבע עגלים אפשרית במשק יחיד בו כל העגלים מקבוצת גיל אחת (הפרש גילים של עד 3 חודשים) קטן מארבעה, במקרה זה יוחזקו כל העגלים באותה קבוצת הגיל יחד.

הועדה ממליצה כי המעבר לשיטת גידול זו במתקנים הקיימים תעשה בתוך תקופת זמן של 10 שנים, כאשר תוך שנתיים ממועד החלת תקנות אלה, וכשלב ביניים, תובטח המצאות העגלים בקבוצות של שני עגלים לפחות.
החל ממועד קביעת התקנות יאושרו מיבנים חדשים לגידול עגלי חלב, על פי הסטנדרטים המומלצים בסעיף 2 א'.
כל הנאמר בסעיף הנ"ל יעשה בהתיחס לתנאי שטחי המחיה המצויינים בהמשך.

3. שטח מחייה לעגל

הועדה ממליצה על מתן שטח מחייה לעגלים אשר יאפשר לכל עגל לשכב, לנוח, להעמד וללקק את עצמו ללא קושי. המידות המינימליות לשם כך הן כדלקמן:

- באחזקת עגלים בבידוד מעל גיל שבועיים: אורך התא לא יפחת מ-1.1 כפולת אורך העגל ורוחב התא לא יפחת מגובה העגל בשכמות.
- באחזקת עגלים בקבוצות עד משקל של 150 ק"ג - לפחות 1.5 מ"ר לעגל.
- באחזקת עגלים בקבוצות ממשקל 150 ק"ג ועד 220 ק"ג - לפחות 1.8 מ"ו לעגל.
- באחזקת עגלים בקבוצות ממשקל 220 ק"ג ועד 300 ק"ג – לפחות 2 מ"ר לעגל

4. הזנה

הועדה ממליצה כי עד לגיל 4 שבועות לא תהיה דרישה כלשהיא למתן מזון נוסף לעגל מעבר למתן החלב ותחליפיו. מגיל 4 שבועות עד 15 שבועות ממליצה הועדה לדרוש מתן של לפחות 100 גר' תערובת במנה ליום. מגיל 15 שבועות עד שווק ממליצה הועדה לדרוש לפחות 250 גר' תערובת במנה ליום.

5. שתיית מים

הועדה ממליצה כי לעגלי החלב בכל הגילאים ינתנו מים בין הארוחות למעט שעתיים אחרי הארוחה וכשעה לפני הארוחה, בנוסף לנוזלים הניתנים כחלב, זאת באופן חופשי ובכמות מינימלית של 2.5% ממשקל העגל.

משרד החקלאות ופיתוח הכפר, האגף לבע"ח, ת"ד 28, בית דגן, מיקוד: 50250
טלפון: 03-9485311, פקס: 03-9485614

6. אוורור

הועדה ממליצה על קיום רמת אוורור במבנה בו משוכנים העגלים התואמת את המלצות שרות ההדרכה של משרד החקלאות כפי שבאות לביטוי בחוברת ההנחיות שפורסמה לאחרונה (שושני וחוב' 2001).
מומלץ כי החלפת האוויר הכלוא במבנה תהיה מידי 2 דקות.

7. אור

הועדה ממליצה לאפשר לעגלים להימצא ברמת אור סבירה לפחות כמספר שעות האור ביממה.

8. מצע לבע"ח

הועדה ממליצה שהעגלים יוחזקו בתנאים של מצע רך או בטפחות מתאימות לרבות אמצעים למניעת החלקה, גרוי וחדירת גפיים בין הטפחות. בכל מקרה יש להבטיח לעגלים רביצה בתנאי נוחות.
עגלים חולים הנמצאים בבדוד ישהו על מצע מרופד.

חברי הועדה מביעים תקווה כי ההמלצות המובאות במסמך זה יסייעו להמשך קיומו וציבותו של ענף גידול עגלי החלב בישראל תוך שמירת חוק צער בעלי חיים.

בברכה

דר' ישראל פלמנבאום

מנהל המח' לבקר, שה"מ – מ. החקלאות ופיתוח הכפר

יו"ר הועדה

חתימת חברי הועדה:

דר' ישראל פלמנבאום (יו"ר) .....

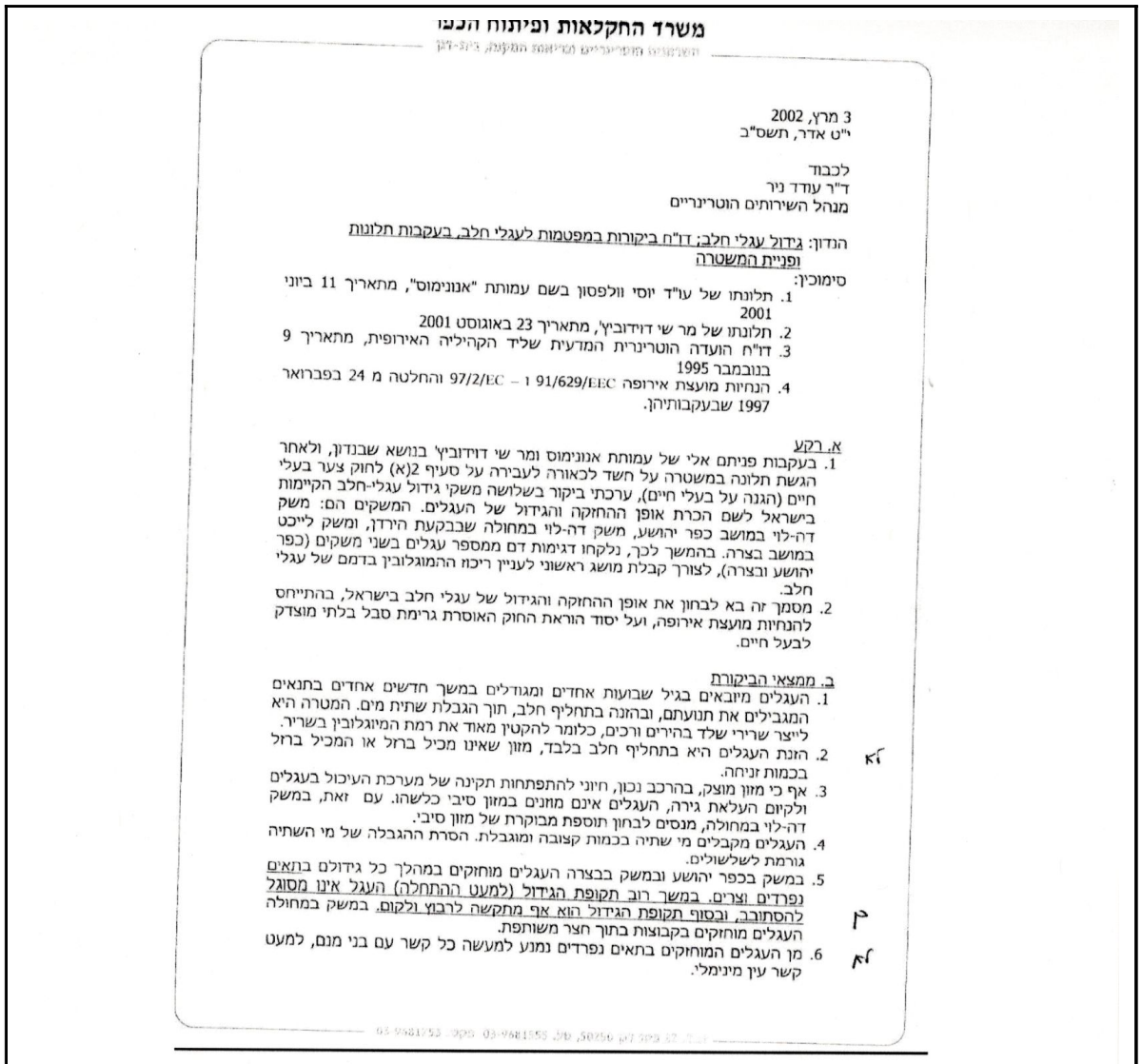
עו"ד יוסי ולפסון (חבר) .....

דר' מישל בלאיש (חבר) .....

דר' רונן מלצר (חבר) .....

משרד החקלאות ופיתוח הכפר, האגף לבע"ח, ת"ד 28, בית דגן, מיקוד : 50250
טלפון : 03-9485311, פקס : 03-9485614

Appendix C



משרד החקלאות ופיתוח הכפר

3 מרץ, 2002
י"ט אדר, תשס"ב

לכבוד
ד"ר עודד ניר
מנהל השירותים הוטרינריים

הנדון: גידול עגלי חלב: דו"ח ביקורות במפטמות לעגלי חלב, בעקבות תלונות ופניית המשטרה

סימוכין:
1. תלונתו של עו"ד יוסי וולפסון בשם עמותת "אנונימוס", מתאריך 11 ביוני 2001
2. תלונתו של מר שי דוידוביץ', מתאריך 23 באוגוסט 2001
3. דו"ח הועדה הוטרינרית המדעית שליד הקהיליה האירופית, מתאריך 9 בנובמבר 1995
4. הנחיות מועצת אירופה 91/629/EEC ו – 97/2/EC והחלטה מ 24 בפברואר 1997 שבעקבותיהן.

א. רקע

1. בעקבות פניתם אלי של עמותת אנונימוס ומר שי דוידוביץ' בנושא שבנדון, ולאחר הגשת תלונה במשטרה על חשד לכאורה לעבירה על סעיף 2(א) לחוק צער בעלי חיים (הגנה על בעלי חיים), ערכתי ביקור בשלושה משקי גידול עגלי-חלב הקיימות בישראל לשם הכרת אופן ההחזקה והגידול של העגלים. המשקים הם: משק דה-לוי במושב כפר יהושע, משק דה-לוי במחולה שבבקעת הירדן, ומשק לייכט במושב בצרה. בהמשך לכך, נלקחו דגימות דם ממספר עגלים בשני משקים (כפר יהושע ובצרה), לצורך קבלת מושג ראשוני לעניין ריכוז ההמוגלובין בדמם של עגלי חלב.
2. מסמך זה בא לבחון את אופן ההחזקה והגידול של עגלי חלב בישראל, בהתייחס להנחיות מועצת אירופה, ועל יסוד הוראת החוק האוסרת גרימת סבל בלתי מוצדק לבעל חיים.

ב. ממצאי הביקורת

1. העגלים מיובאים בגיל שבועות אחדים ומגודלים במשך חדשים אחדים בתנאים המגבילים את תנועתם, ובהזנה בתחליף חלב, תוך הגבלת שתית מים. המטרה היא לייצר שרירי שלד בהירים ורכים, כלומר להקטין מאוד את רמת המיוגלובין בשריר.
2. הזנת העגלים היא בתחליף חלב בלבד, מזון שאינו מכיל ברזל או המכיל ברזל בכמות זניחה.
3. אף כי מזון מוצק, בהרכב נכון, חיוני להתפתחות תקינה של מערכת העיכול בעגלים ולקיום העלאת גירה, העגלים אינם מוזנים במזון סיבי כלשהו. עם זאת, במשק דה-לוי במחולה, מנסים לבחון תוספת מבוקרת של מזון סיבי.
4. העגלים מקבלים מי שתיה בכמות קצובה ומוגבלת. הסרת ההגבלה של מי השתיה גורמת לשלשולים.
5. במשק בכפר יהושע ובמשק בבצרה העגלים מוחזקים במהלך כל גידולם בתאים נפרדים וצרים. במשך רוב תקופת הגידול (למעט ההתחלה) העגל אינו מסוגל להסתובב, ובסוף תקופת הגידול הוא אף מתקשה לרבוץ ולקום. במשק במחולה העגלים מוחזקים בקבוצות בתוך חצר משותפת.
6. מן העגלים המוחזקים בתאים נפרדים נמנע למעשה כל קשר עם בני מנם, למעט קשר עין מינימלי.

Appendix D

Rabbi Paul Plotkin has raised a number of objections to this teshuvah, and it would be appropriate to comment on them in an appendix to the teshuvah.

Is it inappropriate for this teshuvah to support the highest standards now proposed? These standards are both modest (e.g. the minimum space required is for a moderately sized stall, not for free-range roaming for the calf) and supported by veterinary experts and animal science experts. In fact, the producer organization in the United States, the American Veal Association, has now called for the veal industry in the United States to convert eventually to meet the standard on housing, and the Israeli Ministry of Agriculture has also ordered the veal farms in Israel to meet the higher set of standards after an investigation by experts. This call for change in the way veal calves are raised is due to evidence amassed by veterinarians and animal science experts and to the pressure exerted by the public. These are promising developments, but Jewish communities cannot wait on the sidelines and assume that these standards will be put into effect. The American Veal Association has suggested to its members for the industry to convert by the end of 2017, a concession that may be delayed or limited, and the implementation of the requirements of the Israel Ministry of Agriculture has been delayed time and again. The Jewish community must continue to keep up the pressure on the industry.

Will this teshuvah lead to a מחמיר position banning the consumption of all animal products? One could very well argue that the CJLS teshuvah banning shackling and hoisting could eventually lead to such a consequence, yet Rabbi Plotkin voted in favor of it. This teshuvah on veal calves clearly states that we can utilize animals for our own benefit as long as we do not mistreat them.

Should the treatment of veal calves be the subject of a teshuvah at all? Rabbi David Golinkin thought so fifteen years ago. Rabbi Moshe Feinstein thought so twenty-five years ago. Halakhic literature offers details on the proper treatment of animals, in regard to how they must

be fed, how they must be in transportation and agriculture, etc. It would seem then that this is a proper subject for a teshuvah.

Will a restriction on veal lead to a restriction on chickens? The difference between veal calves and chickens is that veal calves have been a concern for decades, as witnessed by the responsa of Moshe Feinstein and David Golinkin and progress has been minimal at best. Even currently, as of the writing of this teshuvah, much has been promised, but there has been little, if anything, actually implemented. This teshuvah is intended to be a catalyst for change. Chickens have become a cause for concern only in the last few years for a variety of reasons, and change in the conditions of how they are raised is happening rapidly. Major chain restaurants and supermarkets are seeking to make some or all of their chicken products from chickens raised under improved conditions, and the industry is undergoing rapid shifts.

Can a kosher consumer find out under what conditions an animal is raised? We can argue back and forth about whether the proprietor of a particular kosher market is able or willing to find this information out, but an apt example of a kosher product that did not exist in the past and that is available now because Jews who kept kosher asked for it out of their concerns about how the animals were raised -- kosher organic beef and chicken. If kosher consumers were to ask the owner of their kosher market for humanely raised veal, any owner with a modicum of business sense would get it, just as the owners of kosher markets have included organic beef and chicken among their products.