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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

**Mishna**

If a man slaughtered an animal that was close to death, Rabban Shimon ben Gamliel says: The *shechitah* is invalid unless it jerked its foreleg and its hind leg (*for otherwise, we are concerned that it died before the shechitah was completed*). Rabbi Eliezer says: it is sufficient if it spurted blood (*for animals tend to blow and heave from inside their throats on account of shechitah; this too is a sign that it was alive up until then*).

Rabbi Shimon said: If a man slaughtered (*an animal that was close to death*) by night and early the following morning found the walls (*of the outside of the throat*) full of blood, the *shechitah* is valid, for this proves that it spurted blood, which is sufficient according to Rabbi Eliezer’s opinion. The Sages say: The *shechitah* is invalid unless it jerked either its foreleg or its hind leg, or it wagged its tail.

This is the test both with regard to small and large animals. If a small animal stretched out its foreleg but did not withdraw it, the *shechitah* is invalid, for this was but (*a spasm*) an indication of the expiration of its life (*but it is not a sign of life*).

These words apply only to the case of an animal which was presumed to be dying, but if it was believed to be healthy, even though it did not show any of these signs, the *shechitah* is valid. (37a)

**Animal that was Close to Death when Slaughtered is Permitted to be Eaten**

The *Gemora* asks: How do you know that an animal (*which was slaughtered*) that was close to death (*due to illness*) is permitted to be eaten?

The *Gemora* counters: But why should you assume that it is forbidden?

The *Gemora* answers: It is because it is written: *This is the animal (chayah) which you may eat*, that is to say, that which is capable of living you may eat, but that which is not capable of living you may not eat, and a dying animal cannot live.

The *Gemora* answers: Since the Torah writes that a *neveilah (an animal that died without shechitah)* is forbidden to be eaten, it follows that an animal that was close to death is permitted; for if you were to say that an animal that was close to death is forbidden, then it will be asked: If it is already forbidden while still alive (*for it is presumed that an animal gets to that stage before it actually dies*), is there any question that it is forbidden after death?

The *Gemora* asks: But perhaps a *neveilah* and an animal that is close to death is the same thing?

The *Gemora* answers: This cannot be, for it is written: *And if an animal which is permitted for you to eat shall die, he who touches the carcass (neveilah) shall be tamei*. When it is dead, the Torah refers to it as a *neveilah*, but while it is still alive, it is not referred to as a *neveilah*.

The *Gemora* persists: But perhaps a *neveilah* and an animal that is close to death is the same thing, but whereas the animal is still alive, one who eats from it transgresses a positive commandment, and after death, one transgresses a negative commandment (*as well*)?

Rather, we must derive it (*that an animal that was close to death which was slaughtered is permitted to be eaten*) from here. Since the Torah stated that a *tereifah* (*an animal with a physical defect that will cause its death; it is forbidden to be eaten even if it was slaughtered properly*) is forbidden to be eaten, it follows that an animal that was close to its death is permitted; for if you were to say that an animal that was close to its death is forbidden, then it will be asked: If an animal that was close to its death, which is not physically deficient (*it is not missing any of its vital organs*) is forbidden, is there any question that a *tereifah* is forbidden?

The *Gemora* asks: But perhaps a *tereifah* and an animal that is close to death is the same thing, and the reason that *tereifah* was expressly prohibited was to teach us that one who eats from it transgresses a positive commandment as well as a negative one!?

The *Gemora* answers: If so, then for what reason does the Torah expressly prohibit *neveilah*? For if while the animal is still alive, one who eats from it transgresses a positive commandment as well as a negative one, is there any necessity for the Torah to mention that it is forbidden after its death?

The *Gemora* persists: But perhaps a *neveilah*, a *tereifah*, and an animal that is close to death is the same thing, and after death, one transgresses two negative commandments and one positive commandment?

Rather derive it (*that a tereifah does not mean an animal that is close to its death due to illness*) from here. It is written: *And the cheilev (forbidden fat) of a neveilah and the cheilev of a tereifah may be used for any other service (it is not subject to*

*the tumah usually associated with neveilah), but you shall not eat of it. And a master said: For what purpose is this stated (for all cheilev is forbidden; why would we think that it is permitted if the animal is also a tereifah or a neveilah)? The Torah says: Let the prohibition of neveilah come and take effect upon the prohibition of cheilev, and likewise, let the prohibition of tereifah come and take effect upon the prohibition of cheilev (so that one who eats the cheilev of a tereifah or neveilah transgresses two prohibitions, i.e., the prohibition of cheilev and the prohibition of tereifah or neveilah). Now, if you would think that the term tereifah includes an animal that is close to its death, the Torah could have written: And the cheilev of a neveilah may be used for any other service (it is not subject to the tumah usually associated with neveilah), but from the cheilev of a tereifah you shall not eat of it. [The teaching that one prohibition takes effect upon the other would only be stated by tereifah, and not neveilah.] And I would have argued as follows: If while the animal is still alive, the prohibition of tereifah (which now refers to any animal that is close to death) takes effect upon the prohibition of the cheilev, is there any question of this (that the prohibition of neveilah should take effect upon the prohibition of cheilev) after death (when the animal is actually death, not merely 'close to its death')? Rather, since the Torah expressly stated *neveilah* in the verse, it follows that the term *tereifah* does not include an animal that is close to its death (and by the fact that the Torah prohibits a *tereifah*, we can derive that an animal that is close to its death will be permitted).*

Mar the son of Rav Ashi asked: Perhaps in truth the term *tereifah* does include an animal that is close to its death, and if you will ask: Why then does the Torah expressly state *neveilah* (*that its cheilev is forbidden*)? I will reply that it refers only to a case of *neveilah* which did not come from a status of being close to its death, as in the case where the animal was split into two (*for at one moment it was completely alive, and the next moment (even during its convulsions) it was completely dead*)?

The *Gemora* answers: Even in that case it is impossible for the animal to have died without first being 'close to death' for a short moment - before the greater portion of the animal had been split.

Alternatively, I can answer as follows: If it is so (*that an animal close to death is forbidden*), the verse should have stated: *And the cheilev of neveilah and of tereifah*. Why is the word 'cheilev' repeated? It must be to teach us that in this case (*of tereifah*) there is no distinction between its *cheilev* and its meat (*they are both forbidden*), but there is another case in which there is a distinction between its *cheilev* and its meat, and that is the case of an animal that is close to death (*its cheilev is forbidden, but its meat is permitted*).

Alternatively, we can derive it (*that an animal close to its death is permitted*) from Yechezkel's protest (*as to why he did not want to eat barley cake which was baked using human waste as its fuel*): *Woe, Lord God! Behold my soul has not become unclean, nor have I eaten neveilah or tereifah from my youth until now, nor did piggul meat enter my mouth. [This verse cannot be understood literally, for Yechezkel is attempting to demonstrate his greatness, and these items are all explicitly prohibited.]* And it has been interpreted as follows: *Behold my soul has not become unclean* - I did not allow impure thoughts to enter my mind during the day so as to lead to uncleanliness at night. *Nor have I eaten neveilah or tereifah from my youth* - for I have never eaten of the meat of an animal concerning which it had been exclaimed: 'Slaughter it! Slaughter it' (*before it dies*)! *Nor did piggul meat enter my mouth* - for I did not eat the meat of an animal which a Sage ruled it to be permitted. In the name of Rabbi Nassan it was reported that this means: I did not eat from an animal from which the Priestly gifts had not been removed.

Now, if you say that the meat of an animal that was close to death is permitted to be eaten, then in this lies the greatness of Yechezkel, but if you say that it is forbidden to be eaten, wherein lies the greatness of Yechezkel? (37a – 37b)

### **What is an Animal that is Close to Death?**

The *Gemora* asks: What is the case of 'an animal that is close to death'?

Rav Yehudah said in the name of Rav: If when it is prompted to stand it does not.

Rav Chananya bar Shelemya said in the name of Rav: And this is so even if it can eat pieces of wood. Rami bar Yechezkel said: Even if it can eat beams.

The above was the version taught in Sura; in Pumbedisa, however, it was taught as follows: What is the case of 'an animal that is close to death'? Rav Yehudah said in the name of Rav: If when it is prompted to stand it does not- and this is so even if it can eat pieces of wood. Rami bar Yechezkel said: Even if it can eat beams. (37b)

### **INSIGHTS TO THE DAF**

#### ***Electrically stunning an animal before slaughtering***

In a previous issue we addressed decrees against *shechitah* that have hovered over various European countries for the last 150 years, instigated generally by organizations claiming to prevent "cruelty to animals". In this article we shall treat a suggestion that arose in those times of tribulation: slaughtering animals after being electrically shocked.

**The gentile authorities' recommendation:** This solution was recommended by gentile authorities. They told the Jews that after stunning the animal with an electric shock there would be no opposition to *shechitah*. Is this method halachically acceptable? The question was a major issue in Eastern Europe before the Second World War when the German government forbade Jews to slaughter animals that hadn't been stunned. The greatest *poskim* in Germany, Poland and

Lithuania discussed the question at length and reached the conclusion that such *shechitah* is absolutely forbidden. The major work concerning this issue is that of HaGaon Rabbi Yechiel Yaakov Weinberg zt"l, author of *Seridei Eish* (printed at the beginning): "Electrically Stunning Animals Before Slaughtering". The long treatise includes the replies of dozens of halachic authorities from all over the world. We emphasize that the method of stunning might differ from country to country and that Rav Weinberg's reply concerns the method suggested in Germany at the start of the Nazi era.

It emerges that stunning raises many halachic suspicions and we shall detail them in brief. Concurrently we will become somewhat familiar with concepts that we shall soon be studying *b'ezras Hashem*.

**Mesukenes - Endangered:** Shocking causes an animal to faint. Our mishnah clarifies that an "endangered" animal – i.e., whose condition of health is endangered – is not kosher unless it is clearly proven that it didn't die because of its weakness before the end of slaughtering. Stunning renders an animal "endangered" and as long as we don't have proof that it remained alive till the end of *shechitah*, it is a *neveilah*.

**Treifah:** Other suspicions caused by stunning have to do with the 18 *treifos* listed by *Chazal*, which are 18 possibilities of a deficiency in an animal's body such that it becomes *treifah*. Electrical stunning is likely create a few suspicions of *treifah*:

**A fallen animal:** An animal falls when stunned and its very fall causes a suspicion that it became *treifah* due to injury to vital organs.

**Risuk Eivarim - Injured organs:** Stunning might injure an animal's organs even without falling, mainly the brain, rendering it *treifah*.

**Change in appearance:** If an essential change of appearance occurs in one of an animal's vital organs, it is *treifah* (see *Beis*

*Yosef*, 43, and Remo, *ibid*, *se'if* 2, etc). Doctors testify that sometimes the appearance of the brain and lungs differs after electric stunning and becomes redder.

**Einah Chaya - Unable to live:** According to many *poskim* (see *Dagul Merevavah*, Y.D. 29; *Nekudos HaKasef*, *ibid*; and *Responsa Marcheshes*, 29), an animal becomes *treifah* even if the disease, because of which it won't live over 12 months, is not yet in its body. It suffices to consider it *treifah* if, due to some illness or injury, it is obvious that a condition will eventually develop causing that it won't be able to live over 12 months starting from the time in question. Stunning creates a serious suspicion of *einah chayah* - unable to live.

#### DAILY MASHAL

The *Gemora* asks: What is the case of 'an animal that is close to death'? Rav Yehudah said in the name of Rav: If when it is prompted to stand it does not.

The *Imrei Chaim* from Visnitz says that it is well known that *Amidah* – standing is a code word for *tefillah*, as the *Gemora* in *Brachos* 6b states: And '*standing*' means nothing else but prayer, for it is written: *Then Pinchas stood up and prayed*.

Accordingly, perhaps our *Gemora* can be explained as follows: What is the case of a person that is endangered? When is a person regarded as his life is in danger? If when he is prompted to stand he does not. That means to say: He is taught how to pray but he refuses to accept the correct methodology as to how one should stand and daven in front of the Creator.