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Animal Close to its Death

Shmuel once met Rav’s disciples and asked them: What did Rav say with regard to an animal that is close to its death? They replied: This is what Rav said: It is considered jerking (*and therefore permitted*) if it lows (*sound that cows make*) or excretes or moves its ear (*for these are all indications of life*).

Shmuel said to them: Does Abba (*Rav*) really require the moving of the ear? I am of the opinion that whatever movement the animal makes (*is a sign of life*), provided that it is not a movement that a dead animal makes.

The *Gemora* asks: And what are the movements that a dead animal makes?

Rav Anan said: Mar Samuel explained it to me as follows: If its foreleg was bent and it stretched it out, this is a movement that a dead animal makes; if its foreleg was outstretched and it bent it, this is a movement that a dead animal does not do (*and therefore, it would be an indicator that the animal was alive*).

The *Gemora* asks: But what does he teach us? We have learned it already in our *Mishna*: 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*). Now it follows from this that if it did withdraw it, it is kosher?

The *Gemora* answers: From our *Mishna* alone, I might have concluded that it is sufficient only if its foreleg was bent and it stretched it out and then bent it again, but if it was initially extended and it merely bent it, it would not be an indicator of life; he therefore teaches us that even in this case, it is a sufficient sign of vitality.

The *Gemora* asks on Rav from the following *braisa*: Rabbi Yosi said: Rabbi Meir used to say that the lowing of an animal while it was being slaughtered was not an indicator of life. Rabbi Eliezer the son of Rabbi Yosi said in the name of Rabbi Yosi that even if it excreted or wagged its tail, it is not an indicator of life.

The *Gemora* answers: With regard to lowing, there is no contradiction because in Rav’s case, the noise was thick (*strong*), and in the *braisa’s* case, the noise was faint (*and therefore, it is not a sign of vitality*). And with regard to excreting, there is also no contradiction, for in the one *braisa’s* case, the animal discharged excrement straight down, and in Rav’s ruling, it discharged it at a distance (*which is a sure sign of life*). (37b – 38b)

Jerking by Shechitah

Rav Chisda said: The convulsions (*indications of vitality*) which the Rabbis require must occur at the end of the *shechitah*.

Rav Chisda explains this tradition: But ‘at the end of the *shechitah*’ really means the middle of the *shechitah*, and it excludes only the case where the jerking occurred at the

beginning of the *shechitah* (for that can still mean that it died before the *shechitah*).

Rav Chisda proved this from our *Mishna*, which states: If a small animal stretched out its foreleg but did not withdraw it, the *shechitah* is invalid. Now, when did it do so? It cannot be at the end of the *shechitah* (after it was completed), for how long then must it continue to live (and that should be sufficient to demonstrate that it was alive)? We must therefore say that it did so in the middle of the *shechitah*.

Rava disagrees: In truth, it must do so at the end of the *shechitah* (and merely extending the foreleg will not be sufficient), for I am of the opinion that if the animal did not do so (withdraw its leg) at the end of the *shechitah*, one may be certain that life had expired before the *shechitah* was completed.

Rav Nachman bar Yitzchak holds that the indications of vitality which the Rabbis require may even occur at the beginning of the *shechitah*.

Rav Nachman bar Yitzchak provides proof to this from our *Mishna*, which states: 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. And Shmuel explained that the *Mishna* is referring to the walls of the throat by the place where it is slaughtered. Now, if you say that the indication of vitality may occur even at the beginning of the *shechitah*, it is well (for whenever it spurted blood, it is regarded as a convulsion); but if you say that it must occur at the end of the *shechitah* (then why is the *shechitah* valid), let us be concerned that perhaps it spurted the blood only at the beginning of the *shechitah*!? [It must be that R' Shimon holds that spurting blood is sufficient even if it occurs in the beginning!]

The *Gemora* asks: But perhaps the spurting of blood is a greater indicator of vitality (than other jerking movements, and therefore, it can be effective even in the beginning of the *shechitah*)?

The *Gemora* counters: But is it indeed greater? Have we not learned in the *Mishna*: Rabbi Eliezer says: it is sufficient if it spurted blood? [The language of 'it is sufficient' sounds like spurting blood is less of a requirement than the other convulsions.]

The *Gemora* answers: It is a measure of vitality less than that required by Rabban Gamliel (which is that it moves its foreleg and hind leg), but greater than that required by the Sages (which is that it withdraws its foreleg).

Ravina said: Samma bar Chilkai said to me that the father of Bar Abuvram challenged this, and others say that it was the brother of Bar Abuvram who raised this question: But is it (the spurting of blood) a greater measure than that required by the Sages? Bit does our *Mishna* not say: The Sages say: The *shechitah* is invalid unless it jerked either its foreleg or its hind leg, or it wagged its tail. Now, with whom do the Sages argue? It is with Rabban Gamliel (wo says that it needs to move its foreleg and hind leg)? Then, they should have said: Once it jerked (either its foreleg or hind leg)!? Evidently, they are arguing with Rabbi Eliezer (who maintains that spurting blood is an indicator). Now, if you say that the spurting of blood is a greater measure of vitality than the leg movements, why do they say 'unless' (which sounds like they are being stricter)? [It must be that the spurting of blood is more lenient than the other convulsions.]

Rava said: The indications of vitality required by the Rabbis must occur at the end of the *shechitah*.

Rava said: This is known from the following *braisa*: An ox or a lamb (are animals that can be used as sacrifices) – this excludes a hybrid. Or a goat – this excludes a mutant (a sheep that looks like a goat). When it is born – this excludes one

born by caesarian section. *It shall be seven days* – this excludes an animal which is missing this time. *Under its mother* - this excludes an orphan.

Now, what is the case of ‘an orphan’ referring to? It cannot mean that the mother gave birth and later died, for must it then continue to live on forever!?! It cannot mean that the mother died first and then gave birth to it (*through caesarian section*), for this case would be excluded already from the words: *when it is born*. It therefore can only be referring to a case where the mother died and at that very same moment gave birth.

Now, if you say that the mother must demonstrate signs of life at the conclusion of its giving birth (*and beyond that, and this cases is where it did not do that*), it is therefore necessary to employ a verse in order to exclude this case of an orphan; but if you say that it does not need to demonstrate signs of life at the conclusion of its giving birth (*and beyond that*), why then is a verse employed to exclude this case? It surely is excluded from the words: *when it is born* (*for if the conclusion of the birthing process completed after the mother died, that is also classified as a caesarian section, for it is an unnatural delivery*)? [Accordingly, an animal slaughtered when it was close to death should require signs of life even after the shechitah process has been completed.]

Rava said: The *halachah* follows the following *braisa*: If a small animal stretched out its foreleg and did not withdraw it, the *shechitah* is invalid. These words apply only to the foreleg, but with regard to the hind leg, the rule is that whether it stretched it out but did not withdraw it, or withdrew it but did not stretch it out, it is valid. And all this applies to a small animal, but with regard to a large animal, the rule is that whether it was the foreleg or the hind leg, whether it stretched it out but did not withdraw it or withdrew it but did not stretch it out, it is valid. And with regard to a bird, even if it merely fluttered its wing or flapped its tail, it is regarded as jerking (*and is an indicator of vitality*).

The *Gemora* asks: What is Rava teaching us? Surely these *halachos* have been learned in our *Mishna*, which stated: 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*). Evidently, this applies to the foreleg and not to the hind leg; to a small animal and not to a large animal!?

The *Gemora* answers: It was necessary for Rava to cite the *braisa* with regard to a bird, which is not stated in our *Mishna*. (38a – 38b)

Mishna

If someone slaughtered an animal for an idolater, it is valid. Rabbi Eliezer says: It is invalid.

Rabbi Eliezer said: Even if the Jew slaughtered the animal with the intention that the idolater should eat of its diaphragm (*for the idolater sold the Jew the entire animal except for this small portion*), the *shechitah* is invalid, for we assume that an idolater’s intent in slaughtering an animal is for idolatry (*even though he was only the owner, not the slaughterer*).

Rabbi Yosi said: Is there not here a *kal vachomer* argument? For if in the case of consecrated animals, where a wrongful intention can invalidate (*the sacrifice*), everything depends solely upon the intention of the one who performs the service; so by unconsecrated animals, where a wrongful intention cannot invalidate them, how much more so that everything should depend solely upon the intention of the one who slaughters! (38b)

Slaughtering for an Idolater

The *Gemora* notes that these *Tannaim* (*the first two mentioned in our Mishna*) accept the view of Rabbi Elozar the son of Rabbi Yosi’s law. For it has been taught in a *braisa*: Rabbi Elozar the son of Rabbi Yosi says: I heard that the



owners can cause a sacrifice to become *piggul* (if they have *piggul* intentions during the Kohen's performance of the service, even if the Kohen did not have any thoughts of *piggul*). The *Tanna Kamma*, however, is of the opinion that only if we heard him (*the idolater*) express his is for idolatry does it become invalid, but if we did not hear him, it would not invalidate it, for we do not say that the thoughts an idolater are for idolatry; whereas Rabbi Eliezer is of the opinion that even if we did not hear him express an is for idolatry it is invalid, for we say that the thoughts of an idolater are usually directed towards idolatry. And Rabbi Yosi comes to say that even if we heard him express an idolatrous intention it does not become invalid, for we do not hold that one person's wrongful intention can affect another person's service.

The *Gemora* cites an alternative version: They disagree in a case where we heard the idolater express an idolatrous intention (*during the slaughtering*). The *Tanna Kamma* is of the opinion that the view that one person's wrongful intention can affect another person's service applies only with acts performed inside the Temple, but outside the Temple, it does not apply, and we do not draw any analogy between acts performed outside from acts performed inside; whereas Rabbi Eliezer holds that we may derive outside services from inside services. And Rabbi Yosi comes to say that even regarding acts performed inside, we do not hold that one person's wrongful intention can affect another person's service. (38b – 39a)

DAILY MASHAL

In this chapter we have learned that fish do not require shechitah.

"Dag" or fish equals seven in gematria, as in the seventh day of the week which is Shabbos. It is brought down that fish is an integral food to eat by each of the three Seudas Shabbos. The Ohr HaYashar says that you should make sure

to eat fish especially at Seuda Shlishis. Different reasons are brought down in the Heichal HaShabbos.

The Kotzker Rebbe says that since fish are the only living creature that we eat without any mitzvos accompanying it, such as Shechita and Melicha, therefore we eat it on Shabbos so that it too can be eaten with Mitzva. He also says that just like fish live in the water and do not see the world, so to we live in a world from where we cannot see the real world. On Shabbos which is Mei'ein Olam Haba we get a glimpse of the real world. Therefore we bring fish to our table so that they too can get a view of the world.

Revach cites the Tiferes HaShabbos who says that we can learn from fish the Middah of Bitachon. Fish eat other fish. When you find a fish inside the stomach of another fish you would expect to find the swallowed fish inside its predator, facing the same direction. As it ran away from the bigger fish and was finally caught, its tail would have gone in first. Yet the opposite is true, with the head of the smaller fish facing the rear of the bigger fish. How does this happen? The Tiferes HaShabbos explains that as the fish is chasing his catch another potential catch, swimming past in the other direction, gets swallowed in his mouth without him doing anything. This is the fish that Hashem intended to be his food.

From here we learn that we can chase in hot pursuit after parnassa that is intended for our friend, but at the end our efforts are in vain. We will not catch it. The parnassa that Hashem has allocated us will end up in our pocket automatically without any effort and without all our plans and schemes.