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### Jewish Animal Ethics

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### [–] Abstract and Keywords

This chapter discusses Jewish animal ethics, describing a central concept, *tza'ar ba'alei hayyim*, the ban on causing undue pain to animals, and the varying justifications for that ban. Some of these justifications focus on how compassion for animals will benefit human beings, including human moral character, and others assert the inherent value of animals in and of themselves. The chapter also discusses how the prohibition against causing animals pain is balanced in Jewish sources by human need, a balance that affects not only our use of animals but also Jewish rules regarding eating their flesh, with a persistent minority strain which urges vegetarianism. It then turns to two responsibilities that humans have to animals according to the Jewish tradition—to preserve compassion toward them and to guard them from abuse produced by economic motives. In general, Jews are required to provide animals with both a good life and a good death; this goes against many of the methods used in modern factory farming.

Keywords: Jewish ethics, animal welfare, animal care, animal protection

### The Diversity of Jewish Animal Ethics

Ethically charged engagements with animals permeate Jewish traditions, beginning with the Bible. Compassion (*rahamim*) for animals is deeply interwoven with the Pentateuchal narrative where God creates humans and animals on the same day and gives them the same blessing (Gen 1:24–28); grants humans dominion over animals but also commands them to be vegetarian (Gen 1:26–30)<sup>1</sup>; holds both humans and animals (*kol basar*) culpable for the earth's corruption (Gen 6:12); is angered by human craving for meat (*basar*) (Num 11:33); (reluctantly?) allows humans to eat all living things within a sacrificial system that includes an absolute prohibition on consuming blood as a permanent symbol of the sanctity of life (Gen 9:3–5)<sup>2</sup>; covenants with all creation (Gen 9:8–17); and ordains specific legal protections for animals in both the Exodus and Deuteronomic legal codes—including commanding Sabbath rest for all Israelites, their human slaves, and their large domestic animals (Exod 20:10, 23:12; Deut 5–14). The Prophetic texts of the Bible continue many of these themes, for example by offering visions of the coming messianic age that imply a return to Edenic vegetarianism (Isa 11:6–7, Joel 4:18, Amos 9:14, and Hosea 2:24). In the *Ketuvim* (Writings), the Psalms are especially dense with images of animal praise of God and God's care for animal life (e.g., Psalms 65:14; 148:10–13); Proverbs argues that the righteous are attentive to animal welfare (Prov 12:10); Job extols the ability of animals to teach humans (12:7–8) and is told by God that the fantastic animal, behemoth, is “the first of God's work” (40:19); and Ecclesiastes even questions the degree to which animals (*behemah*) are inferior to humans (p. 420) (Eccles 3:19). Indeed, the dominant image of God in the Bible is as a shepherd of God's human flock generally and of Israel in particular (Gen 48:15; Isa 40:11; Ps 23:1)—an image that uses the relationship between humans and farmed animals to describe the ideal human–divine relationship.

Classical rabbinic texts, biblical commentators, and liturgists expand this robust combination of both *halakhic* (Jewish legal) and *aggadic* (nonlegal) attention to animals found in the Bible.<sup>3</sup> All comprehensive rabbinic legal

compendiums incorporate animal ethics.

The Jewish concern for animal welfare continues in medieval and modern Jewish sources, both religious and secular. For example, tales of compassion for animals are a regular feature of contemporary Orthodox hagiographies.<sup>4</sup> The value of animal life is a recurring theme in the work of modern literary adepts such as Franz Kafka, Nobel Laureate Shmuel Yosef Agnon, and a handful of major figures in Yiddish literature including Nobel Laureate Isaac Bashevis Singer. Animal ethics has increasingly been enshrined in Israeli law and remains a prominent theme among secular and other “problematically” Jewish thinkers such as Walter Benjamin, Max Horkheimer, Jacques Derrida, and Peter Singer. Moreover, this ethical regard for animals takes on distinctive forms in specific historical movements, most notably in the various forms of Jewish mysticism, in ethical movements like Mussar, and in responses to catastrophic destruction. Because of length limitations, the distinct ways in which each of these Jewish voices expresses concern for animal welfare will of necessity be conflated here.

While keeping this diversity in mind, the chief aim of this chapter is to utilize a largely synchronic and text-based analysis to describe the constraints of the mainstream of Jewish animal ethics and provide a phenomenological taxonomy that allows us to comprehend the fundamental basis for compassion to animals. In order to allow space to touch on pragmatic questions of responsibility, the chapter will give special attention to farmed animals. We will proceed through the detour of a story.

### Imagining Jewish Animal Ethics

In the talmudic tractate *Bava' Metzi'a'* (32a–32b) we encounter the most extended discussion of the most important question regarding the *halakhic* status of Judaism's broad principle of animal protection: is the general Jewish law not to cause suffering to living creatures without cause (known as *tza'ar ba'alei hayyim*) a “Torah law” or a “rabbinic law”? If it is a Torah law, then the commandment has great authority—greater than the vast body of Jewish law proclaimed by rabbinic traditions. Though “it is the virtually unanimous opinion of rabbinic decisors”<sup>5</sup> in later periods that this principle of minimizing pain to animals is a Torah law, the debate in the Talmud itself is left unresolved. Roughly fifty folios later, as if in response to this unresolved debate, we are told of a curious interaction between a nameless calf and the editor of the Mishnah, Rabbi Judah haNasi (second century).<sup>6</sup>

(p. 421) The story contains two parts. In the first, Rabbi Judah is punished for his lack of compassion to a calf being led to slaughter:

A calf being lead to *shehitah* [Jewish religious slaughter] broke away, hid its head in the folds of Rabbi's garment, and wept. He said to it: “Go. For this you were created.” [The heavenly court] said [in response]: “Since he had no compassion, let him face sufferings.” (B. *Bava Metzi'a'* 85a)

The second part of the story explains why Rabbi Judah's sufferings ultimately ended:

One day Rabbi's female servant was sweeping the house. Some infant rodents were scattered [from their nest], and she swept them up. He said to her: “Let them go. As it is written: ‘His compassion is over all His works’” (Ps. 145:9). They said: “Because he was compassionate, let us be compassionate to him” (B. *Bava Metzi'a'* 85a).

This story creates a dialectical juxtaposition of two different sentiments, both put in the mouth of Rabbi Judah: “Go. For this you were created,” and “His compassion is over all His works” (Ps. 145:9). Though the force of this story is to highlight the importance of compassion for animals, the idea that animals are created for the sake of humans, a prevalent view in the Talmud, is never denied.

So, to paraphrase the philosopher of animal ethics, Mary Midgley, why do animals matter?<sup>7</sup> The major fault line in answering this question is the issue of whether animals were created by God only for humans, or whether they have inherent worth. Further, what responsibilities does Jewish animal ethics impose on us?

### The Horizons of Jewish Animal Ethics

In light of the biblical and rabbinic sources mentioned above, there is no question about *whether* animals matter,

but only why and how. Abraham Ibn Ezra (1089–1164) goes so far as to include animals in the command to “Love your neighbor as yourself” (Lev. 19:18).<sup>8</sup> Moses Hayyim Luzzatto (1707–1746) makes compassion for animals a basic virtue.<sup>9</sup> Noah Cohen concludes that the classical rabbis see compassion for animals as “categorical and undeniable....not a proposition to be proved.”<sup>10</sup> This notion constitutes the opening horizon of Jewish animal ethics: our treatment of animals matters. Human–animal relations are an important religious issue.

While it is clear that animals matter, it is equally clear that there is widespread agreement in rabbinic sources that whatever human and Jewish responsibilities there are to protect the *lives* of animals, such protections should not preclude the use of animals for legitimate human *interests*, such as—paradigmatically—satisfying the desire to eat *basar*, flesh. This principle, rarely explicit but constantly operative, constitutes the closing horizon of Jewish animal ethics. One can argue that Judaism is a tradition friendly to and even encouraging of ethical vegetarianism (though this is a position many would dispute), but one cannot persuasively argue that traditional (p. 422) and modern forms of Judaism demand a complete ban on meat consumption such as, for example, we find in several South Asian traditions. Significantly, some powerful minority streams within Judaism would insist that consuming meat is in principle unethical—a moral compromise—and would argue that vegetarianism is an ideal even though not a mandatory practice. These minority streams, perhaps as old as the book of Genesis, are found in traces throughout the Talmud and classical commentaries on the Bible<sup>11</sup> and are vibrant in Jewish materials throughout modernity.<sup>12</sup> In light of the way in which Judaism has evolved over time, there is no reason these now marginal views could not one day become dominant.<sup>13</sup>

This simultaneous insistence on both the value of animal lives and the greater value of human well-being is articulated in a dialectical fashion throughout Jewish texts by juxtaposing countervailing principles of, on the one hand, *kindness* to animals (often coupled with an emphasis on human creatureliness), and, on the other hand, human *ascendancy*, (often coupled with an emphasis on human distinctiveness).<sup>14</sup> We have in fact already seen this dialectical strategy in the story of Rabbi Judah and in Genesis’s juxtaposition of God’s violent command to dominate (“master” and “rule”) animals with a command to be vegetarian. As the modern Orthodox rabbi Irving (Yitz) Greenberg explains, “The Jewish strategy was to combine human activism and restraint, yoking mastery over nature with reverence for the natural order.”<sup>15</sup>

### Why Animals Matter: To Benefit Humans

When the tradition emphasizes the ascendancy side of the dialectic, compassion for animals is understood to be for the sake of the human being, but when the kindness side of the dialectic is highlighted, animals are granted a value independent of human beings. Both strains serve as foundations for Jewish animal ethics.

Three distinct but overlapping Judaic ideas point to the value of compassion for animals for the sake of humanity: the ideas that (1) compassion to animals is rewarded (as in the story of Rabbi Judah), (2) morally outstanding individuals spontaneously show compassion to animals, and (3) sensitivity to animals promotes sensitivity to other humans.

The first idea can be found in the Deuteronomic Code itself where the command to drive away a mother bird before taking her eggs (birds become distressed when their eggs are taken)—a paradigmatic example of compassion for animals in later Jewish traditions—is followed by the phrase “in order that it may go well for you” (Deut 22:7). Thus we read in the Talmud that “anyone who is compassionate to creatures receives compassion from the heavens, and anyone who is not compassionate to creatures does not receive compassion from the heavens” (B. *Shabbat* 151b).<sup>16</sup> Similarly, in *Midrash Tehillim*, the rabbinic commentary on the Book of Psalms, Abraham concludes that Noah and his sons came forth alive from the ark “only [!] because they gave alms [to animals]” (Ps 37).<sup>17</sup> In the legal code of Rambam (Moses ben Maimon, or “Maimonides,” 1135–1204), the *Mishneh Torah*, we read, “He who (p. 423) shows mercy to animals will in turn be shown mercy by God.”<sup>18</sup> *Sefer Hasidim*, a thirteenth-century text of German Jewish pietists, asserts that “A person who hurts an animal needlessly will receive the same punishment” (§482).<sup>19</sup> The second theme noted above, that compassion for animals is a quality inherent in the righteous person, is articulated most famously in the book of Proverbs: “The righteous person knows the needs [*nefesh*, literally “soul”] of his animal” (Prov 12:10). The same conception seems to be operative in Genesis (24:44), where Abraham’s servant Eliezer determines that Rebecca—a paradigm of the good wife—is a suitable spouse for Isaac when she provides water not only for him, but also, without prompting, for his camels. We also find

it in rabbinic texts, such as *Midrash Tanhuma* (Noah 5), where both Noah and Joseph are deemed righteous men “because they nourished creatures.” Perhaps most strikingly, *Exodus Rabbah* (2:2) relates that both Moses and David—the paradigmatic male leadership of Israel—were tested by God through how they functioned as shepherds.

The third theme, that compassion for animals actively promotes kindness to other humans, is articulated by Ramban (Moses ben Nahman, “Nahmanides,” 1194–1270) in his commentary on both the Deuteronomic law that one must drive away a mother bird before taking her eggs (22:7) and the prohibition on killing a mother and its young on the same day (Lev 22:28). Ramban goes out of his way to argue that the reason for the law of the mother bird is not—despite the suggestion of some Jewish sources (including Ramban<sup>20</sup>)—the undeniable suffering of the mother bird. *Sefer ha-Hinnukh* (thirteenth century), which provides a numbered, systematic commentary on each of the 613 commandments of the Torah, cites Ramban’s view with approval: God’s “compassion does not extend over [individual] creatures with animal souls [but only over entire species]...for if so, *shehitah* [Jewish ritual slaughter of animals] would have been forbidden. Indeed, the reason for the restriction [i.e., of driving away the mother bird] is to teach us the quality of compassion” (Mitzvah 545).<sup>21</sup> And referring to the commandment in Deuteronomy 25:4 not to muzzle a domestic animal during its work (thus causing the animal suffering by tempting it with food it cannot eat), another law paradigmatically associated with compassion for animals, *Sefer ha-Hinnukh*, makes the case that “from its root the commandment serves to teach us to make our souls beautiful ones...by accustoming us to this even with animals, which were created only to serve us” (Mitzvah 596).

### Why Animals Matter: The Inherent Value of Animal Creation

Other streams, by contrast, champion the inherent, divinely established worth of animals by emphasizing (1) God’s care for animals, (2) animals’ praise of God,<sup>22</sup> and (3) ways that animals are imbued with and reflect the divine.<sup>23</sup> Many of these images are found in the Psalms, such as the aforementioned “His compassion is over all His (p. 424) works” and, at the end of the same Psalm, “And all flesh [*basar*] will bless His holy name forever and ever” (145:21). Significantly, Psalm 145, which incorporates all three themes and is recited three times in the daily liturgy, is regularly used as a proof text demonstrating God’s concern for animals. For example, in the rabbinic text *Tanhuma*, Psalm 145:9 is cited to prove that unlike human beings, who, when aboard a ship caught in a storm, will toss their possessions and animals overboard, God, by contrast, “shows compassion to animals in the same way He shows compassion to people” (*Noah* 6).

Another widely cited example of the first theme, divine concern for animals, is Psalm 147:9, which praises God as the one “Who gives to the animals their food, to young ravens what they cry for.” An interesting intensification of this theme is the idea that God cares so much for animals that unethical humans are saved for their sake. Thus in *Genesis Rabbah* we read that God grants the wicked kingdom of Alexander rain only for the sake of animals: the verse “Human and animal You save, Adonai” (Ps 37:7) is reinterpreted by the text to mean, “Human *for the sake of* animal You save, Adonai” (33:1). The Maharal (Judah ben Bezalel Löw, ca. 1520–1609) provides the most explicit articulation of animals having an inherent value rooted in divine concern, “Everything, like grasses and fruits, were created for the sake of animals, which are flesh, for He gave them everything to eat, as the verse states, ‘I give you...’ [Gen 1:29]. From this you see that everything else was created for the animals, while the animals were created in the world for their own sake” (*Be’er Ha-Golah*).<sup>24</sup>

Examples of the second theme, the tradition of animals (and other parts of the natural world) praising God, are frequent in Psalms, such as the exhortations of Psalm 148—“Praise Adonai ...wildlife and all animals, creeping things, and birds of wing....Let them praise the name of Adonai” (148: 7–13), and Psalm 150, the concluding line of the entire book, “Let all that breathes praise Adonai” (150:6). The theme also “occurs quite frequently in talmudic and midrashic literature,”<sup>25</sup> such as the talmudic interpretation of 1 Samuel 6:12, in which two cows pulling the Ark of the Covenant “turned their faces toward the Ark and sang a song [praising God]” (B. *Avodah Zarah* 14b). The Rabbis go on to debate precisely what song the cows sang! The most dramatic example of this theme is found in *Perek Shirah*—a text of uncertain origin that consists of six chapters containing verses beginning with the formula “The such-and-such says...” and then putting a quotation from the Bible, most frequently Psalms, in the mouth of an animal, plant, or other part of the natural world. For example, “The hen is saying, ‘He gives food to all flesh [*basar*], for his covenant-love [*Hesed*] is eternal’ [Ps 136:25].” *Perek Shirah*’s influence is considerable in part because of the long-standing practice in some Jewish communities of incorporating it into daily prayer, one chapter

for each weekday.

Overlapping these traditions are texts that address the third theme, that animals are imbued with and reflect the divine. Psalm 104:24 declares that God fashioned all creatures with wisdom. The Talmud, going further, maintains that each creature consented to the form God gave it, implying that God conferred with the animals (B. *Hullin* 60a). This ability to reflect a part of the divine wisdom hovers in the background of the numerous classical rabbinic stories of animal sagacity. For example, *Pesikta Rabbati*, a sixth- or seventh-century redaction of earlier rabbinic (p. 425) materials, tells a story of a cow who, when sold to a gentile, still refused to work on the Sabbath and ultimately so impressed its new owner with its piety that the new owner converted to Judaism and became a great rabbi (14).<sup>26</sup> In some of these stories animals behave ethically and show an awareness of God when humans do not. Thus “Balaam’s ass” sees a divine messenger on the road when Balaam is unable to do so (Num 22:21–28), and in the Talmud we read that while the humans of today are like donkeys when compared with the previous, morally superior generation, they are “not like the donkeys of R. Hanina and R. Pinhas ben Ya’ir,” who refused to eat untithed barley and therefore are, the text seems to imply, our moral superiors (B. *Shabbat* 12b). Moses Cordovero (1522–1570), returning to the story of Rabbi Judah and the calf, argues that “the Supernal Wisdom is extended to all created things—minerals, plants, animals, and humans....In this way man’s pity should be extended to all the works of the Blessed One just as the Supernal Wisdom despises no created thing....This is the reason our holy teacher was punished for his failure to have pity on the young calf that tried to hide near him.”<sup>27</sup>

### Human Responsibility for Animals

The two roots of compassion for animals delineated in the previous two sections produce two fundamental Jewish responsibilities that humans have toward animals: (1) to protect a precious and imperiled human “sentiment of compassion” that flows simultaneously toward both humans and animals,<sup>28</sup> and (2) to protect animals from humans where economic incentives make abuse likely. Significantly, these responsibilities are among the very few that some rabbinic traditions extend to all humanity. Thus Saadiah Gaon (ca. 882–942), for example, argues that gentiles will be rewarded for observing the commandment to chase away the mother bird.<sup>29</sup> A stronger statement of the universality of this obligation is the mishnaic prohibition against eating a limb from a living animal, one of the seven “Noahide laws,” understood as obligatory for all humanity.<sup>30</sup> While this prohibition is justified in a variety of ways, compassion for animals is a common rabbinic explanation. This inclusion of animal protection in the Noahide laws, at least for those who see a humane impulse behind it, implies that treatment of animals is one marker of whether a person or nation is “civilized” and thus fully human. As Jordan Rosenblum argues, the Tannaim understood this law as a basic taboo “that distinguishes a civilized person from an animal.”<sup>31</sup> Compassion toward animals is thus configured as basic to the humanity of humans.

### Meat as an Ethical Problem

Rather than survey core areas of human responsibility to animals, I will limit this discussion to animals that are eaten as food, commenting on both classical texts (p. 426) and the contemporary state of affairs. Jewish traditions tend to view the act of killing animals as acceptable but morally fraught. Thus the Talmud dictates that one should not eat meat unless one craves it and kills the animal on one’s own (B. *Hullin* 84a), has wealth (B. *Hullin* 84a<sup>32</sup>), and is educated (B. *Pesahim* 49b). Some intellectual streams go further and view meat-eating as a divine compromise, understanding *kashrut* (Jewish dietary law) as a vehicle intended to limit meat eating or even encourage us toward vegetarianism. The most influential modern exponent of this idea was almost certainly Rabbi Abraham Isaac Kook (1865–1935), the first Ashkenazic Chief Rabbi of pre-state Israel.<sup>33</sup> Meat is an ethical problem both because it ends an animal’s life, and God “did not create His creatures to die” (*Midrash Aggadah* to Genesis 1:29),<sup>34</sup> and because killing poses a threat to human moral development. This is perhaps the logic behind the Mishnah’s assertion that “the best of the butchers is a partner of Amalek [the arch-enemy of Israel]” (M. *Kiddushin* 4:14).<sup>35</sup> In this way, the first ethical obligation in relation to eating animals is *restraint*.

At the same time, another strain in the Jewish tradition mandates eating meat (often “meat and wine”) on the Sabbath, and, in some versions, on other celebratory holidays as well, as part of the way the holiday is made special. Thus Rabbi J. David Bleich, a contemporary Orthodox authority, maintains that vegetarianism is, at most, permissible—and there are rabbinic authorities whom he quotes who deny that—and certainly not mandatory.<sup>36</sup>

### The Ideal of an Animal's Good Death

If one does eat meat, we can subdivide the ethical responsibilities into those that pertain to the animal's life and those relevant to the animal's slaughter. Taking the latter first, one important responsibility concerns the damage potentially done to the slaughterer's ability to cultivate compassion. For this reason diverse Jewish traditions argue that only men of high ethical caliber should be slaughterers (*shoh'tim*)—men who can resist the callousness that killing animals may engender. In one widely circulated modern image, the Baal Shem Tov (Israel ben Eliezer, 1698–1760) is said to have been so sensitive a butcher that he whetted the blade used for slaughter with his own tears. This said, I am aware of no evidence that steps are taken by modern industrial kosher slaughterhouses to ensure that their *shoh'tim* are sensitive to animal suffering. Lack of confidence in humane slaughter, among other factors, has prompted an increasing number of contemporary Jews to exert considerable effort to arrange for an individual *shohet* to slaughter an animal for them or pay a premium to a handful of small distributors that give special attention to finding *shoh'tim* sensitive to animal suffering.<sup>37</sup>

Another responsibility is to provide the animal a good, relatively quick death. This idea is often expressed in manuals used to train *shoh'tim*, which have (p. 427) historically cited Rambam's position<sup>38</sup> that *shehitah* functions to prohibit cruelty. Unlike the practice of selecting particularly sensitive individuals to serve as *shoh'tim*, the technical rules of *shehitah* are enforced in contemporary kosher slaughter. However, if we rely on peer-reviewed essays by recognized experts in humane slaughter, in particular the work of Dr. Temple Grandin, we have strong evidence suggesting that kosher slaughter is not any more humane than is usual in the United States or Europe.<sup>39</sup> Moreover, a high-profile 2004 video of the kosher slaughter methods employed at what was then the largest glatt kosher cattle slaughter facility in the United States revealed that the plant was systematically removing the trachea and esophagi of cattle after *shehitah* but before loss of consciousness. I mention this egregious case of animal abuse, which is not representative of kosher slaughter, in order to contextualize the response of kosher certification companies who, when challenged, argued publicly that animals killed in this manner were considered kosher and that, indeed, no amount of animal suffering, no matter how extreme, would have any bearing on whether these companies certify a product as kosher. While this procedure is technically consistent with *halakhah*, where the law requiring compassion for animals and *shehitah* are legally distinct domains, it is profoundly at odds with popular Jewish understandings, and many in the Jewish community responded with shock. The same 2004 scandal of animal abuse also seems to have played a key role in inspiring Jews to reassert the traditional ties between kosher practice and animal ethics. For example, novelist and National Jewish Book Award-winner Jonathan Safran Foer produced a widely distributed video entitled "If This Is Kosher..." protesting the incident and making a case for Jewish vegetarianism. And at an institutional level we could point to the Conservative Movement's historic development of an ethical certification (*Magen Tzedek*, "shield of justice") that would be provided to select food products beyond the usual kosher certification and would address ethical issues including animal welfare. We can conclude that the ideal of providing animals a good death is very much a living one, however imperfectly it is put in practice.

### The Ideal of a Life Free of Unnecessary Suffering

The same is not true of Jewish traditions that provide an animal a good life. The vast majority of unnecessary animal suffering on today's ubiquitous "factory farms" occurs not at the slaughterhouse, but on the farm itself while the animal is being raised. One egregious example is the suffering caused by the common practice of confining animals in spaces so small that they cannot extend their limbs for long periods of time, or, as in the case with egg-laying hens, during most of their lives. Since in a previous era abuses such as confining animals to a point of near (p. 428) immobility would have led animals to be unproductive or die, there was no need for legal measures to prevent such abuse; having a productive animal generally was consistent with providing the animal good welfare. Today, by contrast, sick and suffering animals may actually be more profitable than healthy ones.

This important observation has been advanced by the prominent animal welfare advocate, philosopher, and "father of veterinary medical ethics,"<sup>40</sup> Dr. Bernard Rollin, a secular Jew who spent twelve years in *yeshivah* (Orthodox religious school).<sup>41</sup> Rollin has argued throughout his career of more than thirty years that the major problems of farmed animal welfare today are the result of a failure to update our ethics to take into account our contemporary situation. In today's factory farms unnecessary animal suffering is at least as likely to occur on the farm as it is during slaughter, and responding to this new situation is arguably the most important aim of

contemporary animal ethics, including Jewish animal ethics. Ninety-eight percent of the interactions that U.S. citizens have with animals are with those raised for food,<sup>42</sup> and 99 percent of these animals are raised on factory farms.<sup>43</sup> Nonetheless, no movement of Judaism in the United States or Israel has attempted to develop policy on the systematic suffering inflicted upon animals on factory farms *during their lives*. This situation is likely to change in the near future, and already a committee of the Rabbinical Assembly, the organization of Conservative rabbis, is at work on just such a document as part of its *Magen Tzedek* program to certify foods as meeting ethical as well as ritual standards.

An important resource in formulating a response is the broad legal principle expressed by the rabbis of the Talmud as a command not to cause *tza'ar*—literally “suffering” and understood to mean suffering that does not advance some legitimate human good—to *ba'alei hayyim*—to “living beings.” The *Rishonim* (leading rabbinic authorities of the eleventh to sixteenth century) associate a variety of laws with this principle. Frequently cited examples include the prohibition against plowing with two animals of unequal strength (paradigmatically an ox and donkey), which causes the weaker animal to suffer (Deut 22:10), and the already mentioned prohibition on muzzling an ox as it labors (Deut 25:4)—rabbinically expanded to include all animals. Arguably the most prominent such law, found in both versions of the Decalogue, dictates that animals too are to be included in Sabbath rest (Exod 20:10, Deut 5:14).

All of these laws are expanded by rabbinic traditions, creating a massive body of legal material regarding Jewish and human responsibilities to animals. Thus, for example, the participation of animals in the rest of the Sabbath has led both ancient and contemporary rabbis to be lenient in permitting activities that are otherwise prohibited on Shabbat if they function to relieve animal pain (*tza'ar ba'alei hayyim*). And Rashi, commenting on Exodus 23:12, interprets the command to include not simply freedom from labor, but a positive state of contentment, and he thus rules that animals normally must have access to pasture on the Sabbath.

Such laws demonstrate a concern for animal lives that takes into account diverse forms of harm such as that caused by the behavior of other animals, by emotional factors, or by constant exertion without respite. While forged largely in (p. 429) relation to laboring animals, the basic thrust of these laws—concern for the physical, social, and emotional lives of animals—would today be most applicable to the systematic forms of abuse inflicted upon farmed animals being raised for meat, milk, and eggs.

### Conclusion

In closing, I will venture beyond the descriptive task that has driven this discussion by asking what insights might the ethico-legal traditions documented here provide if we took seriously Rollin's caution that the fundamental nature of animal abuse has changed with the rise of new technologies—and, to extend his argument, the rise of new forms of forgetting the suffering of animals and hiding it from view.<sup>44</sup> Although it is beyond the scope of this chapter to document, it is of great significance that it is being published at a time when factory farming has created a historically unprecedented degree of suffering for billions of animals. We would do well to think deeply about this misery and our societal, if not individual, complacency and complicity with it. Why? “Morality resides there, as the most radical means of thinking about the finitude we share with animals, the mortality that belongs to the very finitude of life, to the experience of compassion.”<sup>45</sup> The talmudic story of Rabbi Judah and the calf with which this chapter began is sometimes read as a caution: even individuals of great moral stature may too readily draw on parts of the Jewish tradition that serve humans (“Go. For this you were created”) while forgetting those that serve our humanity (“His compassion is over all His works”).

In Jewish tradition the human is “responsible for the universe, the hostage of the creature ...asked to account for things ...he did not will.”<sup>46</sup> We are responsible both because animals matter and because human compassion itself is at stake. In our response to the new challenges posed by modernity to Jewish animal ethics, we risk both animal lives and that most exalted state of ethical achievement that we call, perhaps too audaciously, being human.

Bleich, David J. 2001. “Judaism and Animal Experimentation” and “Vegetarianism and Judaism.” In *Judaism and Environmental Ethics*, Martin D. Yaffe, ed. Lanham, Boulder, New York, Oxford: Lexington Books.

Cohen, Noah J. 1959. “*Tsa'ar Ba'ale Hayim*—the Prevention of Cruelty to Animals.” Ph.D. dissertation., Catholic

University of America.

Derrida, Jacques. 2008. *The Animal That Therefore I Am*, David Wills, trans and Marie-Louise Mallet, ed. New York: Fordham University Press.

Gross, Aaron. 2010. "The Question of the Animal: Dietary Practice, Ethics, and Subjectivity." Ph.D. dissertation, University of California.

Levinas, Emmanuel. 1990. "The Name of a Dog, or Natural Rights." In *Difficult Freedom: Essays on Judaism*. Baltimore: Johns Hopkins Press.

Schochet, Elijah Judah. 1984. *Animal Life in Jewish Tradition*. New York: KTAV.

Schwartz, Richard. 2001. *Judaism and Vegetarianism*. New York: Latern.

Sears, David. 2003. *The Vision of Eden: Animal Welfare in Jewish Law and Mysticism*. New York: Orot.

Slifkin, Natan. 2006. *Man and Beast: Our Relationships with Animals in Jewish Thought*. New York: Yasha Books/Lamda Publishers.

Telushkin, Joseph. 2006. *A Code of Jewish Ethics: Vol. 2, Love Your Neighbor as Yourself*. New York: Bell Tower.

Waldau, Paul, and Kimberley Patton, eds. 2006. *A Communion of Subjects: Animals in Religion, Science, and Ethics*. New York: Columbia University Press.

### Notes:

(1.) Genesis 1:29–30 is interpreted with near unanimity by classic Jewish and Christian biblical commentators as indicating that God originally commanded humans to be vegetarian.

(2.) See Jacob Milgrom, *Leviticus 1–16*, Anchor Bible Series (New York: Doubleday Dell Publishing Group, 1991), pp. 718, 733, 735, 736, 741; Mary Douglas, *Leviticus as Literature* (Oxford: Oxford University Press, 1999), p. 137.

(3.) For a systematic analysis of one such interpretive expansion see Jeremy Cohen, *Be Fertile and Increase, Fill the Earth and Master It: The Ancient and Medieval Career of a Biblical Text* (Ithaca, NY: Cornell University Press, 1989).

(4.) Arguably the best-known such hagiographical story is about the founder of the Mussar movement, Israel Salanter, who is said to have spent the evening of Yom Kippur rescuing a lost calf while his congregation waited for him.

(5.) David J. Bleich, "Judaism and Animal Experimentation," in *Judaism and Environmental Ethics*, Martin D. Yaffe, ed. (Lanham, Boulder, New York, Oxford: Lexington Books, 2001), pp. 356–57.

(6.) Also see *Genesis Rabbah* 33:3.

(7.) Mary Midgley, *Animals and Why They Matter* (Athens: University of Georgia Press, 1984).

(8.) Elijah Judah Schochet, *Animal Life in Jewish Tradition* (New York: KTAV, 1984), p. 263.

(9.) Moshe Hayyim Luzzatto, *The Path of the Upright = Mesillat Yesharim*, Mordecai Menahem Kaplan, trans. (Northvale, NJ: Jason Aronson, 1995), p. 155.

(10.) Noah J. Cohen, "Tsa'ar Ba'ale Hayim—the Prevention of Cruelty to Animals" (Ph.D. dissertation, Catholic University of America, 1959).

(11.) Yael Shemesh, "Vegetarian Ideology in Talmudic Literature and Traditional Biblical Exegesis," *Review of Rabbinic Judaism* 9 (2006).

(12.) Arguably the most articulate contemporary voice of this historically persistent minority position is the Yiddish



writer and Nobel laureate Isaac Bashevis Singer: "I feel that since I'm a vegetarian that not only man, but even animals belong to my community. They suffer just as we do. They are made of blood and flesh." Janet Hadda, *Isaac Bashevis Singer: A Life* (Madison: University of Wisconsin Press, 2003), p. 144.

(13.) In entertaining this possibility I follow Jacques Derrida, who speaks of "a war (*whose inequality could one day be reversed*) being waged between, on the one hand, those who violate not only animal life but even and also this sentiment of compassion, and, on the other hand, those who appeal for an irrefutable testimony to this pity."

Jacques Derrida, *The Animal That Therefore I Am*, David Wills, ed. and Marie-Louise Mallet, trans., *Perspectives in Continental Philosophy* (New York: Fordham University Press, 2008), pp. 28–29.

(14.) Aaron Gross, "The Question of the Animal: Dietary Practice, Ethics, and Subjectivity" (Ph.D. dissertation., University of California, 2010), chap. 6.

(15.) Irving Greenberg, *The Jewish Way* (Northvale, NJ: Jason Aronson, 1998), p. 105.

(16.) Unless otherwise indicated, Hebrew translations are my own.

(17.) *The Midrash on Psalms*, trans. William Gordon Braude, 2 vols., vol. 1, Yale Judaica Series (New Haven, CT: Yale University Press, 1959), p. 422.

(18.) *Kinyan, Hilkhot Avadim* 9:8. As translated in Schochet, *Animal Life in Jewish Tradition*, p. 202.

(19.) Yehudah HaChassid, *Sefer Chasidim: The Book of the Pious*, trans. Avraham Yaakov Finkel (Northvale, NJ: Jason Aronson, 1997), p. 270.

(20.) See *Moreh Nebukim (The Guide for the Perplexed)* 3:48.

(21.) My own translation has benefited from the annotated English translation of Charles Wengrov: *Sefer Ha-Hinukh*, trans. Charles Wengrov (Jerusalem & New York: Feldhaim, 1988).

(22.) For examples see Louis Ginzberg, *The Legends of the Jews*, Henrietta Szold and Paul Radin, trans. (Skokie, IL: Varda Books, 2003), pp. 43–46; Dov Neumon, "Motif-Index of Talmudic-Midrashic Literature" (Ph.D. dissertation, University of Michigan, 1954), pp. 224–28.

(23.) This threefold typology is indebted to the work of Kimberley Patton. See Kimberley Patton, "He Who Sits in the Heavens Laughs: Recovering Animal Theology in the Abrahamic Traditions.," *Harvard Theological Review* 93, no. 4 (2000), p. 409.

(24.) As translated in Shemesh, "Vegetarian Ideology" (at note 11 above), p. 146.

(25.) Genesis 1:28.

(25.) Ginzberg, *The Legends of the Jews* (at note 22 above), p. 45.

(26.) For an extensive list see Neumon, "Motif-Index of Talmudic-Midrashic Literature" (at note 22 above), pp. 215–18.

(27.) Moses Cordovero, *The Palm Tree of Deborah*, Louis Jacobs, trans. (New York: Sepher-Hermon, 1981), pp. 83–84 (chap. 3, in Hebrew).

(28.) The idea of a "sentiment of compassion" that, like animals, needs protection is helpfully theorized by Jacques Derrida, from whom I take this phrase. See Derrida, *The Animal That Therefore I Am* (at note 13 above), pp. 28–29.

(29.) See Schochet, *Animal Life in Jewish Tradition* (at note 8 above), p. 263.

(30.) T. *Avodah Zarah* 8:4; B. *Sanhedrin* 56b.

(31.) Jordan Rosenblum, *Food and Identity in Early Rabbinic Judaism* (Cambridge, New York: Cambridge University Press, 2010), p. 71.

(32.) Also see Rashi on Deutoronomy 12:20.

- (33.) More recent examples include the modern Orthodox Rabbi Shlomo Riskin, who writes that “the dietary laws are intended to teach us compassion and lead us gently to vegetarianism” (Shlomo Riskin. “A Sabbath Week–Shabbat Ekev,” *The Jewish Week*, August 14, 1987), and the influential liberal Rabbi Arthur Green, who has described vegetarianism as a “*kashrut* for our age.” Arthur Green, *Seek My Face, Speak My Name* (Northvale, NJ, London: Jason Aronson, 1992), pp. 87–89.
- (34.) As cited in Shemesh, “Vegetarian Ideology” (at note 11 above), p. 146.
- (35.) *The Mishnah*, Jacob Neusner, trans. (New Haven, CT: Yale University Press, 1988), p. 498. This saying is cited with this meaning in *Sefer haHinnukh* (Mitzvah 545).
- (36.) David J. Bleich, “Vegetarianism and Judaism,” in *Judaism and Environmental Ethics*, Martin D. Yaffe, ed. (Lanham, Boulder, New York, Oxford: Lexington Books, 2001).
- (37.) For an anecdotal description of this phenomenon see Samantha M Shapiro, “Kosher Wars,” *The New York Times Magazine*, October 12, 2008.
- (38.) *Moreh Nevukhim (The Guide for the Perplexed)* 3:26, 48.
- (39.) Temple Grandin and Joe Regenstein, “Religious Slaughter and Animal Welfare,” in *Meat Focus International* (Wallingford UK: CAB International, 1994).
- (40.) Bernard E. Rollin, *Putting the Horse before Descartes: My Life’s Work on Behalf of Animals* (Philadelphia: Temple University Press, 2011), p. 29.
- (41.) Yeshivah was largely a negative experience for Rollin, but he notes that he did learn “logic and humor to fight those in power.” *Ibid.*, p. 243.
- (42.) David Wolfson and M. Sullivan, “Foxes in the Henhouse,” in *Animal Rights: Current Debates and New Directions*, Cass R. Sunstein and Martha Nussbaum, eds. (Oxford: Oxford University Press, 2005), p. 206.
- (43.) Farm Forward, “Homepage,” <http://www.farmforward.com/>.
- (44.) For contemporary applications of the idea that we “forget” animal suffering, see Jonathan Safran Foer, *Eating Animals* (New York: Little, Brown and Company, 2009), pp. 197–98; and Derrida, *The Animal That Therefore I Am* (at note 13 above), p. 26.
- (45.) Derrida, *ibid.*, p. 28.

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This chapter discusses Jewish animal ethics, describing a central concept, tza'ar ba'alei hayyim, the ban on causing undue pain to animals, and the varying justifications for that ban. Some of these justifications focus on how compassion for animals will benefit human beings, including human moral character, and others assert the inherent value of animals in and of themselves.