

PART IV

**THE PROHIBITION OF EATING MEAT THAT WAS
SEPARATED FROM A LIVING ANIMAL**

**Including Restrictions on Causing Suffering to Living
Creatures, Mating Different Species of Animals,
and Grafting Different Species of Fruit Trees**

This section explains details of the following four prohibitions and one obligation that are included in this commandment to Gentiles and its offshoots:

1. (a) If meat was severed from a living land mammal or bird, one may not eat from that meat while the creature is still alive. Included in this prohibition is not to inflict cruelty or unnecessary pain on any living creatures. (b) If meat was severed from a living land mammal or bird, one may not eat from that meat even after the creature has died.
2. To be guardians over nature and the life of all creatures, so that they will not be destroyed unnecessarily.
3. Not to cause mating together of two different species of animals.
4. Not to graft together two different species of fruit trees.
5. Not to unnecessarily castrate or neuter an animal.

INTRODUCTION

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For most of us, the story of Noah and the ark ends with the rainbow as God's sign of his covenant with Noah. However, a covenant requires the input of two parties, so, yes, there are also the rules that humanity is required to obey as their contribution to the covenant. Although most of the precepts in the Hebrew Scriptures only apply to Jews, the Seven Noahide Commandments are considered a covenant with all of humanity – therefore it is important for everyone to understand these Divine laws, so that all may uphold their part in the covenant.

One of these Noahide Commandments is that which in Hebrew is referred to as “*Eiver Min Ha'hai*” (“Limb from a Living Animal”), which is the prohibition against eating flesh that was severed from a living animal. On the surface this seems like an easy concept to grasp, and it is. It is an important statement of the limitations imposed on each individual, in light of the broader scriptural permission for humanity to have “dominion” over the animals. It is also a statement of God's concern for the welfare of animals. Humanity's responsibility for animal welfare is further developed in the Hebrew Scriptures to encompass the broader concept of avoiding the infliction of unnecessary pain or suffering (“*tza'ar ba'alei hayim*” in Hebrew) upon living creatures, which is the concept of not doing any harm to animals unless there is a good reason to do otherwise. It is thus made clear that in God's judgment, to treat an animal cruelly is wrong. Therefore, Hebrew Scripture, by showing this caring for animals, also teaches by implication how much worse it is to treat people poorly. So, it is clear that by including “*Eiver Min Ha'hai*” as one of the Seven Noahide Commandments that are incumbent on all humanity, Hebrew Scripture is making a very powerful statement of God's vision for humanity.

In our generation, humanity has begun to re-examine many of its core values, and one outcome has been an increasing concern for

establishing governmental and corporate standards for animal welfare (and for some, the relevance of animal rights in this process). So it is important that we now look closely and seriously at the guidance provided by the Torah's Noahide Code in this important area.

As has been the practice in Jewish law over the approximately 3300 years since the giving of the Torah through Moses, the implementation of any one of God's commandments has always been very carefully considered, including all of its details and ramifications. Throughout Jewish history, this process has been applied to the Noahide Code, just as it was to virtually all other subjects within the oral tradition of the Torah. Various expert Sages and Rabbis over the course of time taught and recorded their codifications, commentaries and responsa, and thereby provided clarifications and explanations of the fundamental texts of the Oral Torah, which include the *Mishnah* and Talmud, the *Mishneh Torah* of Maimonides (Rambam), etc. Furthermore, new situations arise over the generations that need to be ruled upon, based on the principles of the existing rulings that cover the full spectrum of Torah Law. Over time some opinions are accepted by the majority of leading Rabbis and become normative, while others are not widely accepted and assume the status of minority opinions.

This important volume reviews the many available traditional sources that deal with the issues of the Noahide Code for Gentiles. This section of the work then takes the broad principle of "*Eiver Min Ha'hai*" and presents the "meat" (pun intended) on this issue, covering its many details and extended topics in the traditional format of Rabbinical scholarship. The author has applied foundational principles from many sources to these issues, and in this process he has thus resolved standing differences of opinion on key points of practical observance, in regard to permission or restriction, and strictness or leniency. Thus, this work provides the reader with the most comprehensive and up-to-date guide for meeting, and understanding, the requirements of the Noahide Code.

For those seeking to live in accordance with the eternal commandments that God gave through Moses, the need to understand the implications of both the entire Noahide Code and this particular section is critical. As readers will see, many of the modern public issues being discussed in the realm of animal welfare with respect to slaughter, pre-slaughter handling, and post-slaughter waiting for the animal to expire, are covered by this detailed and well-written text. It

now becomes a source for providing guidance to all consumers, along with the regulators and overseers of the modern meat industry, and it challenges us all to be concerned with improving the handling of animals – both on the farm and in our communities, and most importantly in the arena of the compassionate use of animals for human food. With the release of this work, this can now be approached in keeping with modern industry guidelines for animal welfare, while also meeting the ancient but continuously relevant rules of “*Eiver Min Ha’hai*.”

CHAPTER 1

**Permissions and Prohibitions for Gentiles Regarding Meat;
Species for which Meat from a Living Animal is Forbidden**

1. Adam, the first man, was granted dominion over all living creatures, as the Torah states (Genesis 1:28): “And you shall rule over the fish of the sea, the fowl of the sky, and every living thing that moves on the earth.” This dominion granted to Adam was only for using animals to perform useful tasks, and he was not permitted to kill any creature for food.^{1,2} However, he was permitted to eat from the carcass of an animal that had died naturally.³ Just as Adam was not permitted to kill any creature to eat its flesh, he also was not permitted to cut off a part of it during its lifetime to eat from it.⁴

2. After the flood, Noah was granted greater permission than Adam. The dominion granted to him entitled him to kill any creature to eat its

¹ Tractate *Sanhedrin* 59b.

² The author notes: from *Sanhedrin* 59b it appears that Adam’s control over animals was only in regard to using them for his own needs. Nevertheless, he was forbidden to kill an animal even for his own needs (i.e. for his food). Surely, then, he was forbidden to cause needless suffering to an animal.

³ Rashi on Tractate *Sanhedrin* 57a, and *Tosafot* on *Sanhedrin* 56b.

There is a discussion between the Sages as to whether Adam was commanded not to eat *eiver min ha’hai* (flesh from a living animal). Rashi and *Tosafot* explain there (*ibid.*) that Adam was not permitted to kill any animal for its flesh, but he was permitted to eat meat from an animal that had died naturally. Therefore, the prohibition of *eiver min ha’hai* for him (and his descendants before the Flood) only applied practically to eating flesh that became detached from a living animal due to injury or illness, since he was forbidden to cut a living animal **or to kill it in any way**. Rambam (*Laws of Kings* 9:1) maintains that the prohibition of *eiver min ha’hai* was not commanded to Adam at all, because he had no permission to eat meat; rather, it was first commanded to Noah. However, it is clear according to all opinions that it was forbidden for Adam and his descendants to cut off a limb from a living animal, because of the suffering it would cause to the animal.

⁴ Gen. 2:16 teaches that anything other than vegetation was forbidden for people to deliberately kill for food (until after the Flood, when mankind was permitted to eat meat; see Rashi on Gen. 1:29 and Tractate *Sanhedrin* 59b).

flesh, as the Torah states (Genesis 9:2-3): “The fear of you and the dread of you shall be upon every beast of the earth and every bird of the sky, upon everything that moves on earth and upon all fish of the sea; in your hand they are given. Every moving thing that lives shall be yours for food; like the green herbage I have given you everything.”

Noah and his descendants were granted permission to kill any type of animal in any way they desired, for the purpose of food. (Still, it is fitting for a person to have compassion toward animals and to kill them in the most painless manner possible. For mankind was not granted unrestricted permission to cause suffering to a living creature, as will be explained below in Chapter 7. Moreover, it is fitting for a person to distance himself from cruelty to the fullest extent possible.)⁵

Obviously there is no prohibition against a Gentile eating meat taken from the carcass of an animal that died naturally.⁶

3. Noah was, however, forbidden to consume flesh that was removed from certain animals while they were still living (those specified in topic 1:6 below), as the Torah states (Genesis 9:4): “But flesh with its soul, its blood, you shall not eat.” This refers to flesh separated from these live animals, while their soul is still in their blood.⁷ This was an eternal, universal commandment for all the Children of Noah.

4. There are various outstanding logical explanations which can be put forth for this prohibition. For example, the obtaining of such flesh is likely to be done in a way that would result in great pain to the animal.⁸ Furthermore, it is a cruel behavior, which is a trait that people should strive to avoid. Nevertheless, it is from God’s commandment, “But flesh with its soul, its blood, you shall not eat,” that we learn that any flesh that is separated in any manner from the animals that are covered by this prohibition (see topic 6 below), during the time they are alive, is forbidden to be eaten.

⁵ See Rambam, *Guide for the Perplexed*, vol. 3, ch. 17 and 48.

⁶ Deuteronomy 14:21. See Rashi and *Tosafot* cited above in footnote 3.

*However one must guard his life (Part V, topic 7:1), and this includes not eating any tainted foods that would be hazardous to his health.

⁷ Rashi, Tractate *Sanhedrin*, p. 59b.

⁸ Ramban, on Genesis 1:29. However, the act remains forbidden even if the animal is rendered insensitive.

The Rabbinic term used to refer to this prohibition, *eiver min ha'hai*, literally means “limb from a living animal.” However, the prohibition encompasses all flesh (meat, organs or limbs) separated from the designated types of animals while they are alive. This includes any flesh torn off during the animal’s lifetime by a person (even if he bit the flesh off with his mouth),⁹ or by another animal, or which fell off or was severed from the animal’s body due to an accident or illness.¹⁰

5. After Noah left the ark, humans were granted permission to kill any animals for food, or for the use of their body parts for beneficial purposes. However, neither Adam, Noah, or their descendants were ever granted permission to injure, kill, or cause suffering to an animal for no useful purpose, and one who does so violates the prohibition of causing unnecessary pain to a living creature.¹¹

For this reason, it is forbidden to skin an animal or cut out one of its organs during its lifetime,¹² even if one does not intend to eat from the part removed. Instead, if one requires the hide or the organ, one should

⁹ See the discussion of Rabbi (Rabbi Yehuda the Prince) and Rabbi Elazar ben Shimon in Tractate *Hullin* 102b, about one who swallows a small living bird whole (whether he is guilty of eating *eiver min ha'hai*, which is meat taken from a living animal). All agree, however, that if a person bites off and eats flesh from one of the specified animals, he is liable (see topic 2:1).

¹⁰ Rashi on Tractate *Sanhedrin* 57a, *Tosafot* (*ibid.* 56b), and Ran (*ibid.* 59b).

¹¹ Rabbi Zalman Nehemiah Goldberg notes that in Tractate *Hullin* 7b, Rabbi Pinhas ben Yair said to Rabbi: “If one kills the mule, he will transgress the prohibition of wasting [something useful], and if he cuts off its hooves, he will transgress the prohibition of causing suffering to an animal.” From this it appears that killing an animal is not included in the prohibition of causing unnecessary suffering to living creatures.

The author notes: it appears that the only proof from that source is that there is more suffering caused by cutting off the mule’s hoofs, but there is still some pain inflicted by killing the animal. Rabbi would not kill the animal for no useful purpose, although it was mainly for the honor of Rabbi Pinhas. He would sell its meat to a Gentile, or use it for some other purpose.

¹² *The restriction on causing needless pain dictates that one should kill the animal first. Questions arise about an organ transplant from a living animal to another animal or to a human, and if the transplanted organ would be *eiver min ha'hai*; see topic 4:10 and Chapter 7. Constraining an animal for continuous extraction of a bodily fluid is addressed in Chapter 7.

first kill it and then take the parts of its body that one needs.¹³

6. The prohibition against eating flesh taken from a living animal applies only to domesticated mammals, wild mammals, and birds.¹⁴ In more general terms, these are all the animals for which there is a Torah-law distinction between their flesh and their blood. The *kosher* species status is of no consequence to this general prohibition.¹⁵

7. This prohibition does not apply to a *sheretz* animal (defined below), because there is no Torah-law distinction between consuming flesh or blood of a *sheretz*¹⁶ (as is also the case for insect-like creatures, and all other creatures that are not included in the prohibition).¹⁷

Flesh separated from a living *sheretz* animal is allowed to be eaten by a Gentile.¹⁸ It is, however, forbidden to separate a limb or organ from a living *sheretz* because of the suffering this causes to the creature, unless one's intent is that it is to be eaten for a therapeutic effect that will be lost if the creature is killed first.¹⁹ The term *sheretz* refers to the eight creatures designated as such in Leviticus.²⁰ (The Hebrew terms for these creatures are: the *holel*, the *ahbar*, the *tzav*,

¹³ Tractate *Hullin* 85b. (This is further discussed in Chapter 7 below.)

¹⁴ *God also did not grant permission to eat human flesh, whether or not it would be removed while the person was alive (see topic 1:13 below). Note that these four categories of living beings are represented by the four faces of the *hayot* angels of the “divine chariot”: the faces of the ox, lion, eagle and human (Ezekiel 1:10; see Rambam, *Laws of the Foundations of Torah* 2:3-8). Since these angels are elevated to the highest levels of the heavens, we can speculate that God gives an extra honor to their reflections in the physical world, through the Torah's universal restrictions on *eiver min ha'hai* and cannibalism.

¹⁵ Rambam, *Laws of Kings* 9:13. (See Chapter 3 regarding *kosher*-slaughter.)

¹⁶ The blood of non-*kosher* land mammals or birds is forbidden to Jews as “forbidden blood” under the prohibition (Lev. 12:26), “You shall not eat blood.” As a substance, it is not defined as being within the category of non-*kosher* meat, as explained by Rambam, *Laws of Forbidden Foods* 6:1.

¹⁷ Tractate *Sanhedrin* 59b.

¹⁸ *Kesef Mishneh Hilhot Melahim* 9:11.

¹⁹ This is the same as for fish, as explained in topic 1:8 that follows.

²⁰ Leviticus 11:29-30.

the *anakah*, the *ko'ah*, the *leta'ah*, the *homot* and the *tinshemes*.)²¹

8. The prohibition against consuming flesh from a living animal does not apply to fish, mollusks and insect-like creatures. It is not prohibited for a Gentile to consume them even while they are alive, whether to eat them whole or to cut off their limbs, organs, or flesh for food.²² If, however, it is possible to kill these creatures first and then eat from them, one should do so, so that one does not cause unnecessary pain to the living creature, as explained below in topic 7:1. Nevertheless, if there are medical reasons that require one to consume meat or other parts from a live fish or crawling creature, it is permitted.²³

The reason why the prohibition against eating flesh from a living animal does not apply to fish, insect-like creatures or a *sheretz* is because the prohibition is expressed in the verse, “But flesh with its soul, its blood, you shall not eat” (Gen. 9:4). This excludes creatures for which the blood is not considered separately from the flesh in the Torah’s laws of foods that are allowed or forbidden for Jews.²⁴

Even large sea mammals (for example, whales, dolphins and the like), which are included in the Torah’s category of fish-like animals,

²¹ *There is scholarly difference of opinion as to the identities of these animals. The one land mammal in this *sheretz* category that we can identify without question is the house mouse (Latin name *Mus musculus*). See the discussion of Leviticus 11:29-30 in *The Living Torah*, pub. Moznaim (3rd ed., June 1981, translation and commentary by Rabbi Aryeh Kaplan), which presents the Rabbinical opinions on these animals. (The application of the general precepts of *eiver min ha'hai* depends on a creature’s classification as a mammal, and not on whether it is warm- or cold-blooded. The mole-rat, identified in *Aruḥ* as possibly being the *ḥoled*, is a cold-blooded mammal).

²² *Tosefta*, Tractate *Terumos* ch. 9. The prohibition of Jews to eat *kosher* species of these creatures while they are still alive does not apply to Gentiles.

²³ *Hagahot Mordehai* on Tractate *Hullin*, ch. 3.

²⁴ This is like the permission to eat *eiver min ha'hai* from a *sheretz*, as discussed above (but there is no permission for inflicting unnecessary pain).

*This concept can only be appreciated in the context that the Seven Noahide Commandments are part of the Torah, which was revealed through Moses our teacher at Mount Sinai, as explained in the Introduction to this book. We see here that the concepts of Jewish Torah Law (*halakha*) apply to the details of the Noahide Commandments as well, even though the Torah’s specific laws for Jews do not in general apply to Gentiles.

are therefore not included in the prohibition of *eiver min ha'hai*.²⁵ Likewise, all types of amphibians and reptiles are not included in the prohibition of *eiver min ha'hai* for the same reason.²⁶

9. Mammals that dwell both in the sea and on the land are considered as wild land mammals and are included in this prohibition (e.g. seals, sea otters and sea lions).²⁷

10. In the prohibition against eating meat from a living animal, rodents in general cannot be assumed to be included among the eight *sheretz* creatures that are listed in Leviticus (cited above in topic 1:7). Rodents in general must, therefore, be considered as wild mammals and not as *sheretz* animals, since we find that some rodents, such as squirrels, porcupines, etc., are considered wild mammals in Torah law.²⁸ Because of this doubt as to the identities of the named *sheretz* creatures in Lev. 11:29-30 as mentioned above in topic 1:7, no rodents other than the house mouse, which is definitely a *sheretz*, can be considered exempt from the prohibition of *eiver min ha'hai*.

Bats are considered to be in the same category as birds (Lev.11:19).

²⁵ See Rambam, *Laws of Forbidden Foods* 2:12.

*They are clearly defined *together* with fish in Gen. 1:20 ("Let the waters teem with swarming beings with living soul"), and in v. 21 ("the great sea giants and all the living soul that creeps, with which the waters teemed after their kinds"), which refers to beasts that live entirely in the water. Malbim extends this to all beasts that reproduce in water, even if they sometimes come out onto land, but there are other distinctions to consider.

²⁶ See Rambam, *Laws of Forbidden Foods*, ch. 6. All types of creatures, other than the specific ones for which a Jew has a separate prohibition against eating the blood (i.e. land mammals and birds), are not included in the prohibition of *eiver min ha'hai*.

²⁷ From Tractate *Hullin* 127a, if a mammal can travel on land by its own power, it is called a land mammal. It can be proven from Tractate *Kelim* 17:13 that a sea lion can receive the ritual impurity of an unslaughtered carcass (*neveila*), which applies only to land mammals, because any beast which lives entirely in the sea does not receive Jewish ritual impurity. Since it is therefore a land mammal, it has the prohibition of *eiver min ha'hai*. In *Tzafnat Pane'ah* on Rambam, *Laws of Forbidden Foods* 2:12, it is explained that the sea lion is considered to be both a sea *sheretz* and a land mammal.

²⁸ Tractate *Kilayim*, ch. 8; *Sifra Torat Kohanim* 11:27.

11. When the prohibition applies, a Gentile is liable to punishment for eating even the slightest amount of an edible part (a limb, organ, flesh, fat, etc.) that was taken from the living animal.²⁹

Blood from a living animal is not included in this prohibition.³⁰ A Gentile may drink blood that has already been extracted from a living animal, or cause an animal to bleed if he requires its blood for health purposes. He is, however, forbidden to cause an animal to bleed for the sake of drinking its blood as ordinary food, because of the suffering he will be causing to the animal. After the fact, however, a Gentile may consume blood that was collected in this manner.

It appears that the prohibition of drawing blood from an animal for the sake of drinking applies only if so much blood is drawn that the animal may die as a result. But drawing a small amount of blood from the animal, in a way that will definitely not result in its death, is permitted, if the person has an actual need for it, e.g. for drinking or medicinal purposes. This is because there is no Torah-based prohibition of causing pain to animals in a situation where the person has an actual need for it, as will be explained below in topic 7:2.

The prohibition of eating *eiver min ha'ḥai* applies to meat removed from living domesticated mammals, wild land mammals, and birds of any species. However, a Gentile is liable for a capital sin only for eating *eiver min ha'ḥai* meat from mammals (in the specific conditions explained in topics 1:12 and 3:1 which follow), but not from birds.³⁰

12. Although cutting off flesh from a living animal is included in both the prohibitions of *eiver min ha'ḥai* and causing unnecessary pain to an animal,³¹ a Gentile is not liable to capital punishment unless he eats from severed flesh while the animal is still alive.³² The verse Gen. 9:4,

²⁹ *This is because Gentiles are not subject to the principle for Jews that a Torah precept involving forbidden food does not make one liable to physical punishment unless a minimum amount of the food is eaten.

³⁰ Rambam, *Laws of Kings* 9:10, and the explanation of *Kesef Mishneh*.

³¹ See Tractate *Bava Batra* 20a.

³² It is also forbidden to cut flesh from a living animal and then eat it after the animal dies. See the last footnote for topic 3:2, and 3.4; if a Jew *kosher*-slaughters an animal and it is still convulsing, a Gentile is permitted to cut off a piece of it, but it is forbidden for him to eat it until after the animal has died (for there is no leniency to set aside the command to Gentiles in Gen. 9:4).

“But flesh with its soul, its blood, you shall not eat,” indicates that a Gentile transgresses one of God’s commands to Noah only if he eats from the flesh of an animal that is still alive. But one who cuts off the flesh but does not eat from it is not liable to this penalty. If one person severs the flesh and another person eats it, the liability only applies to the one who eats the flesh. The person who transgresses by severing the flesh, but does not eat from it, is not liable to capital punishment.

Since the Torah places the liability exclusively on the eater (of the detached flesh of a live animal), the manner in which the flesh was removed is of no consequence. Accordingly, a Gentile who eats from *eiver min ha’hai* while the animal is still alive is liable regardless of whether the flesh was removed by him or by another, or even if it became detached because of injury or disease, or for another reason.³³

13. Meat from a human (whether separated while the person was alive or after the person’s death) was never permitted to be eaten.³⁴

A Gentile is not allowed to cut off flesh of an animal killed by non-*kosher* means while its limbs are still convulsing, even if he will not eat the flesh until after the convulsing stops. Thus it is forbidden for a Gentile to (commit half of the transgression and) cut off a piece of an animal while it is still alive and healthy. The only reason permission is given for a Gentile to sever an animal’s flesh immediately after *kosher* slaughter is that “what is permitted for Jews is surely permitted for Gentiles” (if a commandment is not violated). (The opinion of Rambam in *Laws of Kings* 9:13 differs; he says that even if a Jew *kosher*-slaughters an animal, any meat removed from it during the convulsions is from then on forbidden for Gentiles to eat.)

Though one can conjecture that the main prohibition is on cutting off flesh while the animal is still alive (see topic 3:1 below), the actual cutting of the flesh is forbidden as long as eating the flesh would be forbidden.

³³ *E.g., a part that was removed during a medical operation, or testicles of a castrated animal (such as “mountain oysters” from bulls), or a removed tail.

³⁴ *Yad Eliyahu* ch. 45; Malbim on Lev. 11:4. This is apparent from the commandments to Adam and Noah, since Adam was given permission to rule over the animals, but not to eat them, and surely he was forbidden to rule over humans (by an act of kidnapping) and to injure them, for the purpose of eating a person. When God gave permission to Noah to rule over animals, the prohibition against ruling over humans still stood; see *Hizkuni*, Gen. 9:5. This commandment to Adam was given in the positive form (Gen. 2:16): “You may eat from all the trees of the field” – to the exclusion of all non-vegetarian food. This distinction is explained in footnotes 3 and 4 above.

Therefore it is not permitted to eat from a limb, flesh or skin that was removed from a living human.

A Gentile is not forbidden to eat human blood that left the body, even while the person it came from is alive.³⁵ However, it is forbidden to injure a person (Part V, Chapter 6), so there is justification to forbid human blood, since permitting it may lead one to cause human injury.

It is allowed to benefit from part of a Gentile corpse if there is a definite need³⁶ – for example, for medical training or research, or organ transplants.³⁷

It appears, however, that there is no direct prohibition against eating flesh from a human carcass. Nevertheless, this act might be considered a type of “ruling” over another human, and is not permitted; it may also lead to the sin of cannibalism, God forbid.

³⁵ Rambam, *Laws of Forbidden Foods* 6:2.

³⁶ *The permissibility or morality of “plastination” of skinned and dissected human corpses, for purposes of monetary profit and public display, is highly questionable. It is forbidden for Jewish bodies, which must be buried. In the author’s opinion it is both immoral and a desecration of the “Divine image” within any person, and it should be considered in Torah Law as comparable to cannibalism, which is not permitted (see footnote 34).

³⁷ *Hatam Sofer Yoreh De’ah* ch. 336, and *Igrot Moshe Yoreh De’ah* 1:229, rule that it is not forbidden to derive benefit from a Gentile corpse. Some types of benefiting may be forbidden, however; see in footnote 34.

*Since Gentiles are not commanded that they must be buried in the earth, the option is open to plan for donation of organs after one’s own passing, or the passing of a Gentile relative whom one has become legally responsible for. However, it must be noted that God’s Torah defines life by the beating of the heart. Therefore, a Gentile who wishes to be an organ donor is encouraged to make a clear and legally binding stipulation (which may be in a so-called “Living Will”) that no organs may be removed, and no life-support mechanisms may be discontinued (if they have already been applied), before the heart has permanently stopped beating. This is explained in more detail in Part V, topics 1:15-18 and 7:8.

From *Ethics of the Fathers* 3:14, “[Rabbi Akiva] used to say: Beloved is Man, for he was created in the Divine image. It is an even greater [act of] love that it was made known to him that he was created in the Divine image, as it states, ‘In the image of God was man created’ [Genesis 1:27].” This verse refers to all mankind. A practical lesson from this is that the human body should not be treated disrespectfully, even in death. We learn from Gen. 3:19 that the most respectful treatment for a human corpse is burial.

CHAPTER 2

Which Parts from Living Animals are Prohibited to be Eaten

1. For Gentiles, the prohibition against consuming flesh removed from a living animal encompasses not only entire limbs, but also any meat severed from the living animal.³⁸ The proof text, “But flesh with its soul, its blood, you shall not eat” (Genesis 9:4), does not mention a limb, even though the Hebrew term *eiver min ha’hai* literally means “a limb from a living animal.”

The prohibition forbids eating any meat separated *from* a living land mammal or bird, so it does not apply when one swallows a whole small mammal or bird alive.³⁹

2. Thus the prohibition of *eiver min ha’hai* includes a limb comprised of flesh, sinews (tendons) and bones (e.g. a paw or a foot), an organ that is entirely meat (e.g. the tongue, testicles, spleen or kidneys), and the animal’s fat and similar parts. The prohibition applies regardless of whether one severs an entire limb or organ, or merely a portion of one,⁴⁰ and whether he ate the entire severed piece or only a part of it.

3. The prohibition of *eiver min ha’hai* applies only to one who eats severed meat. But if one chews severed bones or sinews and swallows them, he is not liable to punishment (although it is not permitted), for it

³⁸ Rambam, *Laws of Kings* 9:10 states, “A Gentile is liable for a limb or meat of any size.” This teaches that (a) this prohibition for a Gentile is the same whether eating a whole limb or only a piece of meat, and (b) Gentiles have no minimum measurements for an amount of food that is prohibited.

³⁹ This is according to Rebbi (Rabbi Yehuda) in Tractate *Hullin* 102b, according to the explanation of *Tosafot*. This is unlike Rashi who says that the prohibition of *eiver min ha’hai* does apply to swallowing a whole living bird. Rambam, in *Laws of Forbidden Foods* 4:3, rules like *Tosafot*.

⁴⁰ Rambam, *Laws of Forbidden Foods* 5:2. Unlike the case for Jews, this prohibition applies for Gentiles whether the limb has sinews and bone within it or not, since Gentiles have no minimum quantities for forbidden food. [Jews are only guilty of a sin of eating *eiver min ha’hai* if they consume an entire severed limb; a Jew who eats only part of a severed limb commits a different sin, which is eating *treifah* (“torn”) meat.]

is not considered an act of eating food.⁴¹

If one severs a limb in its entirety – flesh, sinews, and bones – or a portion of it, he is liable for eating from it as long as it has some meat on it, even if the majority is comprised of bones and sinews and is not fit to be eaten, provided that he ate at least some part of the meat. If one separates the meat from the bones, he is liable only for eating the meat, but not for eating any bones or sinews.⁴² (One is, however, liable for consuming the marrow of the bones; see topic 2:7 below.)

A foreleg limb that naturally has only bone and sinews but no meat is forbidden as *eiver min ha'hai*, but it does not make one liable to punishment.⁴³

4. This prohibition applies when one severs a limb from the body of a living animal, even though the act will cause the animal's death,⁴⁴ provided it does not kill the animal immediately. If, however, removing the limb or organ directly kills the animal, e.g. the act of cutting off its head or removing its heart, it is considered as if the animal was slaughtered by this act, and the prohibition against eating meat from a living animal does not apply.⁴⁵

5. If one cut off the spleen, kidneys, or any other internal organs (or internal flesh⁴⁶) of an animal while it was alive, and left the severed pieces in the cavity of the animal, they are considered as having been severed from the animal during its lifetime. If the animal is slaughtered thereafter, the organs severed previously remain forbidden.⁴⁷

⁴¹ *Pri Megadim, Sifteí Da'at* 62:1. The prohibition only exists when one benefits in the normal manner of eating. Furthermore, the verse (Genesis 9:4), says, "You shall not **eat**, etc."

⁴² Rambam, *Laws of Forbidden Foods* 5:3.

⁴³ See Tractate *Hullin* 128b according to Rebbi (Rabbi Yehuda the Prince); Rambam, *Laws of Sources of Ritual Impurity* 2:3.

⁴⁴ Rambam, *Laws of Forbidden Foods* 5:5.

⁴⁵ *Haham Tzvi* (ch. 74), gives the reasoning for this: as soon as the heart (or head) is removed, it is impossible for the animal to continue living.

⁴⁶ *Shaḥ Yoreh De'ah* 62:5.

⁴⁷ *As explained in ch. 3, once meat is placed in the category of *eiver min ha'hai*, it remains forbidden to be eaten forever. However, note topic 4:11.

If, however, one cuts off portions of a fetus, leaves them inside the mother's womb and then slaughters the mother, the portions of the fetus are permitted (see Chapter 5 below).⁴⁸

6. An animal's fats, intestines and its stomach are considered as meat in all contexts.⁴⁹ The skin, intestines, gizzard and oviduct of a bird⁵⁰ are all included in the prohibition of *eiver min ha'hai*. As the crop is not edible,⁵¹ one who eats it is exempt from punishment, although it is prohibited to do so.

7. Bones are not considered as fit for human consumption and are not considered as meat. Hence, if one eats from them after they were severed during the animal's lifetime, one is not liable for violating the prohibition against eating meat from a living animal. The above applies even if one ground the bones, chewed them, or cooked them.⁵² This applies even to soft bones that are edible. Bone marrow, by contrast, is considered as meat.⁵³ Similarly, cartilage that is cooked until it is edible is considered as meat.⁵⁴

8. Sinews are not considered fit for human consumption and are not considered as meat. Even soft sinews from a young animal are not considered as meat, since the sinews will harden as the animal gets older.⁵⁵ Therefore, one is not liable to punishment for eating them if they were removed from a living animal (although it is not permitted).

⁴⁸ Rambam, *Laws of Forbidden Foods* 5:9; *Shulhan Aruh Yoreh De'ah* 14.

⁴⁹ This is explained by Rambam in *Laws of Forbidden Foods*, where fat is discussed in 5:5, and intestines are discussed in 4:19.

⁵⁰ The skin of a bird is discussed below in topic 2:10. The other listed parts are discussed by Rambam in *Laws of Sources of Ritual Impurity* 3:10.

⁵¹ Tractate *Zevahim* 35a and Rambam, *Laws of Disqualified Offerings* 18:22, state that the crop is inedible; thus, the prohibition does not apply to it.

⁵² Rambam, *Laws of Forbidden Foods* 4:18. Regarding soft bones, see Rambam, *Laws of Sources of Ritual Impurity*, ch. 3, and *Laws of the Passover Sacrifice*, ch. 10.

⁵³ *Tosefta*, Tractate *Pesahim* 6:8.

⁵⁴ Rambam, *Laws of the Passover Sacrifice* 10:8, and the commentary of Ra'avad there.

⁵⁵ Rambam, *ibid.*

9. An animal's hide is not considered as meat, and the prohibition against eating meat from a living animal does not apply to it.⁵⁶ This applies even if one cooked it thoroughly with spices.⁵⁷ However, soft skin, which is edible like meat, is included in the prohibition.

Included in the category of soft skin that is forbidden to be eaten if removed from a living creature is skin from: domesticated pigs, the hump of a young camel that has never carried a load, the area around the genitals of a female animal, the soft area on the underneath part of the tail,⁵⁸ and a fetus. These types of skin are considered as meat provided one eats them while they are soft. If the skin has already been processed and it has become hard, it is no longer considered as meat,⁵⁹ and one is not liable to punishment for eating it if it was removed from a living animal (although it is not permitted).

10. The skin of a bird is edible, and is like the bird's meat for all considerations.⁶⁰ The feathers, however, are not in the category of meat.⁶¹ Eating the feathers with the skin is equal to eating the meat and the bones together, which is mentioned above in topic 2:3.

11. Horns, hooves and claws of animals or birds (even just the insides of these parts, which are soft), and a placenta are not considered as meat. The prohibition against eating meat from a living animal does not apply to them, and one is not liable for this.⁶²

When is a placenta forbidden to be eaten? When it is removed from the body of a pregnant living mammal (or human) before it gives birth. After the mother gives birth, by contrast, the placenta in which the fetus was carried, and which is afterwards naturally expelled, is

⁵⁶ Rambam, *Laws of Forbidden Foods* 4:18.

⁵⁷ Tractate *Hullin* 77b, and Rashi there.

⁵⁸ Rashi on Tractate *Hullin* 122a.

⁵⁹ Rambam, *Laws of Forbidden Foods* 4:20-21.

⁶⁰ See *Mishnah Aharona* Tractate *Taharot* 1:4.

⁶¹ Feathers are not in the category of flesh, as explained by Rambam in *Laws of Sources of Ritual Impurity* 3:9.

⁶² Rambam, *Laws of Forbidden Foods* 4:18 and 9:7, and *Laws of Sources of Ritual Impurity*, ch. 1.

permitted to be eaten by Gentiles.⁶³ Similarly, if a pregnant animal dies or is slaughtered, the placenta is permitted.

If any part of an animal that is not considered to be edible meat (such as the horns, hoofs, thick skin, bones, sinews, placenta, toe nails, or even the nails of a bird⁶⁴) is severed before the animal dies, one who eats them is exempt from punishment, but it is nevertheless forbidden to do so.⁶⁵

12. An extra limb or organ (e.g. an extra finger or an extra lobe of the liver or lung) is considered as an ordinary limb or organ, and for these one is equally liable for the prohibition of meat from a living animal.⁶⁶ Even if the additional limb or organ would ultimately cause that animal's death, e.g. two livers or three hind legs, it is considered as part of the animal, and for these too one is equally liable for the prohibition.

⁶³ See Rambam and Ra'avad, *Laws of Forbidden Foods* 5:13, regarding Jewish dietary law for a placenta that partially emerged from a *kosher* animal, and then the animal was slaughtered. However, it seems that for Gentiles, anything (including a placenta) that is expelled naturally out of the body of an animal is considered to be a waste product and not meat, and is not restricted by the rules of *eiver min ha'hai*.

⁶⁴ Rambam, *Laws of Forbidden Foods* 4:18.

⁶⁵ *Ibid.*

⁶⁶ Rema *Yoreh De'ah* ch. 62.

CHAPTER 3

**The Prohibition of Separating Meat from an Animal that is
Living or in the Process of Dying, and Restrictions on
Consuming such Meat after the Animal's Death**

1. From the verse Genesis 9:4, “But flesh with its soul, its blood, you shall not eat,” the meaning of “with its soul, its blood” is that its soul is invested in its blood. Thus God commanded Noah that the prohibition of *eiver min ha’hai* applies to eating the flesh while the animal’s soul is in its blood.⁶⁷ Therefore, eating severed flesh is counted as a capital transgression for a Gentile only while the land mammal (domestic or wild) from which the flesh was taken and eaten is still alive.

However, the Sages decreed that the severed meat itself is permanently forbidden and that no one, even one who did not cut it from the living animal, may eat from it if he knows it was severed, despite the fact that the animal from which it was taken has already died.⁶⁸ Once flesh, a limb or organ becomes “meat from a living animal” or “a limb from a living animal,” it can never be removed from that category.⁶⁹

2. From this verse we also know that as long as the animal’s soul is in its blood, it is alive, and it is forbidden to remove any part of it to eat. This applies even if the animal is sick and has signs of terminal illness.⁷⁰ It also applies even if the sick animal has become so moribund that its death is imminent, for the animal is still deemed “alive” so long as there is even the slightest amount of life in it.⁷¹

⁶⁷ This is the explanation of Rashi and *Targum Yonatan* on the verse.

⁶⁸ The Sages made this decree so an individual would have no benefit or financial gain from cutting off flesh from a living animal. This provides a safeguard against nearly or accidentally transgressing the capital sin of eating *eiver min ha’hai* during the life of the animal, and also it safeguards against inflicting unnecessary suffering on living creatures (*tza’ar ba’alei hayim*).

⁶⁹ Tractate *Hullin* 121b. (Regarding a case of doubt, see topic 6:8 below.)

⁷⁰ This can be learned from the case when an animal’s limb is cut off, causing it to become a *treifah* (an animal with a fatal disease or injury), as cited by Rambam in *Laws of Forbidden Foods* 5:5, as explained in topic 2:4.

⁷¹ A deathly sick creature is still considered to be alive (see *Shulhan Aruh Yoreh De’ah* ch. 339, and Tractate *Hullin* 30a and 37a).

Thus, a Gentile who knowingly eats *eiver min ha'hai* that is severed from a living animal when it is moribund, or when it has a terminal illness or injury, is liable for a capital sin if the meat is eaten before the animal dies. However, this rule regarding dying animals applies only when the animal became stricken by a natural cause (for example: from old age or disease.)

The situation is different if the animal became mortally injured through an *action* which can kill it, and from which it will not survive. This applies whether the action was done by a human (for example: if a human slaughtered the animal); or whether it happened through Divine intervention (for example: a ferocious animal pounced on it and broke its collar bone); or if it fell and became fatally injured, as will be explained below in topic 11 (for example: if it fell and both its windpipe and its esophagus were cut). In one respect, a similar rule applies in that it is forbidden forever to eat any flesh that is severed from such an animal while it is still in its death throes. However, one who eats from a dying animal in such a condition, while it is still convulsing just before its death, is not liable for a capital sin if it resulted from an external action such as those cited.⁷²

The difference between “deathly sick” and “moribund” (from a disease or old age), and “the throes of death” after being slaughtered for food, is that the sick animal became stricken without human intervention, and it is dying naturally; whereas if an animal is still convulsing after being slaughtered for food, its dying process has begun in a way that is permitted for a Gentile to have caused. This is also found in Tractate *Sanhedrin* 78a and Rambam, *Laws of Murderers* 2:7. But even if this death-causing act happened naturally (e.g. from an animal of prey), it is the beginning of its death process.

⁷² Radvaz explains (on Rambam, *Laws of Kings* 9:13) that the prohibition of *eiver min ha'hai* is comprised of two types of actions: (1) the prohibition to sever and eat meat from a live animal, and (2) the prohibition to eat meat that was severed from a slaughtered animal that is still convulsing in the throes of death. Since a Jew is allowed to cut off meat from a *kosher*-slaughtered animal as soon as its esophagus and windpipe have been properly cut, a Gentile may surely do so. Likewise, according to Torah law from Mt. Sinai, a Gentile may cut off flesh from a fatally stabbed animal while it is still convulsing in its death throes, if this flesh will *not* be eaten until after the animal dies. However, the early Torah Sages forbade this, as it might lead to eating severed meat while the animal is still convulsing before its death, or even to eating *eiver min ha'hai* in other situations, which is forbidden.

Accordingly, if a Gentile slaughters an animal in any manner, it is forbidden to cut off meat or sever an organ while the animal is in its death throes, and any meat or organ severed at this time is forbidden to be eaten forever.⁷³

3. A more lenient rule applies if an animal is authentically *kosher*-slaughtered for Jewish consumption. First we identify cases that *exclude* an animal from being accepted as *kosher*-slaughtered:

- a) it is a non-*kosher* species;
- b) it is a *kosher* species, but the slaughtering by the Jew is rendered ritually invalid due to an error that was made during the procedure;
- c) it is a *kosher* species, but it is disqualified for *kosher*-slaughter while it is still living [for example: if the membranes of the gullet are perforated, or there is already a slit across more than half the diameter of the windpipe in the area that a *kosher*-slaughter cut could be made; or if either the gullet or windpipe is loosened and displaced.]⁷⁴

In these cases, the meat of the slaughtered animal is not *kosher*, and any flesh that is severed while it is still in its post-slaughter death throes is still forbidden to be eaten forever.⁷⁵ (See end of topic 3:11.)

4. The leniency applies if a Jew performs *kosher*-slaughter, as follows:

- a) a *kosher* species of animal (those which have split hooves and chew their cud – for example, cows, sheep, goats and deer) or a *kosher* species of fowl (for example, a chicken, turkey or duck);
- b) for the purpose of Jewish consumption;
- c) in the Jewish ritual manner of slitting the majority of the gullet and windpipe with an extremely sharp knife.

As soon as the animal has been slaughtered according to these details, a Jew is permitted to remove flesh from this animal for food,

⁷³ *This applies even if the slaughter was performed by a Gentile in the ritual “Jewish” manner of neck slaughter, since the required spiritual dimension for actual *kosher* slaughter (the process called *shehita* in Hebrew) can only be accomplished by a sufficiently Torah-observant Jew.

⁷⁴ It is impossible to perform a valid *kosher* slaughter on an animal that is in one of these conditions. Therefore, as long as it is alive (i.e. the heart is still beating), its meat is subject to the prohibition of *eiver min ha’hai*.

⁷⁵ Tractate *Hullin* 121b; Rashba quoted in Shaḥ Yoreh De’ah ch. 27.

even while it is still convulsing **in its death throes**.⁷⁶ In this case, if a Gentile is acting as an agent or worker for a Jew, he is also permitted to remove flesh (even on his own initiative) from this animal immediately after the Jew's act of *kosher* slaughter (while the animal is still convulsing).⁷⁷ But it is forbidden for a Gentile to then eat the flesh until after the *kosher*-slaughtered animal actually dies and stops convulsing, since this flesh is still temporarily forbidden for Jewish consumption (due to the prohibition in Lev. 19:26).⁷⁸ In this situation,

⁷⁶ It appears, based on Maharshal (as cited in fn. to topic 6 below), that if a Gentile (if he is acting as a worker or as an agent for a Jew), severs anything from the animal that is slaughtered by a Jew under these conditions, then it is considered as if the Jew himself cut off the meat, and it is, therefore, immediately permitted for a Gentile to eat from it. But if a Jew slaughtered an animal for the purpose that it would be used by a Gentile, it is considered as if the Gentile killed the animal, and the same rulings regarding *eiver min ha'hai* apply to it as if it was the Gentile who performed the slaughter.

*The Torah defines the act of ritual *kosher* slaughter as the death of the animal, but any butchering during the short time that the animal is still sensitive to pain is highly discouraged. Also, it would not be consistent with standards of humane treatment in commercial slaughterhouses, which specify that the animal should be surgically insensitive before any further cuts are made. (It has been proven scientifically that the *kosher*-slaughter cut across the neck is painless to the animal if properly done; if the animal is calm when the slaughter is started, none of the bodily chemicals associated with a trauma reflex appear in the blood of the slaughtered animal.)

Note that the twitching of meat long after the cleaning of the carcass is a result of impulses from muscle cells that have yet to die. This can continue long after the death throes of the animal have ceased, and flesh removed from the carcass at that stage is not subject to the prohibition of *eiver min ha'hai*.

⁷⁷ Rashba, Rosh, *Tur* and *Shah Yoreh De'ah* ch. 27, based on Tractate *Hullin* 121b. (In *Laws of Kings* 9:13, Rambam differs from this ruling.)

⁷⁸ See Tractate *Hullin* 33a and 121b: a Jew may only feed a Gentile from an animal which he (the Jew) is allowed to eat from at that time. This is a Rabbinical decree. Torah defines a *kosher*-slaughtered animal as immediately dead, so a Gentile would be able to eat from it while it was still convulsing (*mefarkeset*), if not for the fact that is forbidden to the Jew during that time, based on Lev. 19:26, "you shall not **eat** with the blood." This prohibits a Jew from eating the flesh while the slaughtered animal's life-blood is flowing, but it does not prohibit removing flesh. In other words, a Jew is forbidden to eat the meat of a *kosher*-slaughtered animal or bird before it is *physically* dead.

a Gentile may only eat the meat from the *kosher*-slaughtered animal starting from the time it becomes allowed for the Jew to eat the meat.

5. If a *kosher* species of animal had a terminal disease or injury which made it forbidden for Jews to eat, but it was nevertheless killed by a Jew through the *action* of ritual *kosher* slaughter, there are some Rabbinical opinions that a Gentile (just as a Jew) is permitted to cut off parts while it is still convulsing, just as is the case for regular *kosher* slaughtering, which is discussed in topic 3:4 above.⁷⁹ (Here, the slaughtering may be for any type of Jewish use, and not necessarily for consumption.) However, it appears to the author that a Gentile may not cut off parts from the terminally ill or injured animal (which had then received the act of ritual slaughter by a Jew), until after it dies and stops convulsing. But if a Jew cut off flesh while this animal is still convulsing, then, after the fact, he can give it to a Gentile for food after the animal has died and stopped convulsing. Still, as an initial preference, a Jew should not do so for a Gentile, but he should wait until after the animal stops convulsing.

If flesh is severed by a Gentile before this terminally ill or injured

⁷⁹ *Simla Ĥadasha* ch. 27, and *Pri Megadim Sifteĥ Da'at* 27:2, both have the opinion that for *kosher* slaughter (i.e., *sheĥita*) by a Jew of a terminally ill or injured (i.e., *treifah*) animal, the rule that “anything permitted for a Jew is permissible for a Gentile as well” applies, and the Jew’s act of *sheĥita* removes the status of *eiver min ha’ĥai* completely. This is because the Torah defines *sheĥita* by a Jew as “death” for a *kosher* species of animal.

The understanding of the Maharshal quoted in Shaĥ *ibid.*, and other Torah authorities, is that since the *treifah* animal is from the outset forbidden to be eaten by a Jew according to Torah law, this rule does not apply, and the Jew should not provide its meat for Gentile consumption until it stops convulsing.

Cutting flesh from this *treifah* animal is permitted for the Jew, immediately after the *sheĥita*. But the Jew may not feed it to a Gentile, or intend the *sheĥita* to be for this purpose, since it would be considered as if the Jew is slaughtering a Gentile’s animal, and the Gentile would be forbidden to eat the flesh that was severed while the animal was still convulsing. (See topic 3:6.)

A Jew may cut flesh off of his convulsing *treifah* animal immediately after the *kosher* slaughter, if it is for a different purpose he would benefit from. After the convulsing stops, a Gentile may eat from flesh that was severed by a Jew during the convulsions. Still, a Gentile is forbidden to cut meat from the animal while it is convulsing and then eat that meat (at that time, or later).

animal stops convulsing, it remains forbidden to be eaten afterwards.

6. Moreover, even when a Jew slaughters a *kosher* species of animal (belonging either to a Jew or a Gentile) in the ritual *kosher* manner, if he slaughtered it for the sake of the use of a Gentile, the leniency mentioned in topic 4 above does not apply. Rather, it is regarded as the same as the slaughter of a non-*kosher* animal in regard to the precepts of *eiver min ha'hai*. As long as this animal is in its death throes, any flesh severed from it is forbidden to be eaten forever by a Gentile.⁸⁰

7. Since the prohibition is dependent on the verse “But flesh with its soul, its blood, you shall not eat,” and it is written, “The blood is the soul” (Lev. 17:11,14), this teaches that the soul of life is invested in the blood, which is circulated by the heart, meaning that the soul is based in the heart. Therefore, the moment of death for an animal is defined as the moment the heart ceases permanently to beat. **As long as the heart is still beating**, the animal is considered alive since its soul is still within it, and it is forbidden to cut off its meat or sever its limbs (except for the leniency explained in topic 3:4 above), even though its throat has been slit or another activity to kill it has been performed.

8. How can it be determined by observation that an animal has died? If it is lying lifeless and motionless, and is not breathing, we can assume that it has died⁸¹ (but see topic 3:9 below). Similarly, if its jugular vein or another major blood vessel has been sliced through with an open cut

⁸⁰ Maharshal, Shaḥ Yoreh De'ah ch. 27. The reason given for this is that if a Jew properly slaughters an animal for himself or for other Jews, he actually makes this meat immediately permissible for Jews, according to the Jewish commandment of *sheḥita*, by which the animal is considered dead as soon as the act of *sheḥita* is performed. This removes the condition for *eiver min ha'hai*, and, therefore, it must be permissible also for a Gentile. But if he slaughters an animal for Gentile consumption, it is governed by the Noahide commandment that any meat removed within the duration of the convulsions may not be eaten by a Gentile until after the animal dies. (The Jewish sages added to this, and forbade Gentiles to cut off any flesh from this animal before the convulsions end, as one might come to eat from it.)

⁸¹ Yoma 85a and *Shulḥan Aruḥ HaRav*, *Orah Hayim* 329:3 state that the main life is in the heart, but signs of life are recognizable in the nose and breath, as it says “all that has life in its nostrils” (Genesis 7:22).

and the blood is no longer flowing out vigorously, but merely seeping out from the cut blood vessel, then the animal is dead.⁸²

However, if the vein (even the jugular) is punctured with a stab instead of an open cut, it will bleed out more slowly. Since the animal is still alive as long as its heart is still beating, in this case one must check more carefully to determine if the heart is permanently stopped.

9. If an animal is killed as food for Gentiles, it may first be rendered unconscious by electric shock or the like. But if its reflexes and breath cease, this does not prove that it has died, since it may wake up.⁸³ Its death can be assured by making an open cut through a major vein or artery, and waiting until it has stopped bleeding vigorously.⁸⁴

10. When the head of an animal is severed (its esophagus, windpipe, spine, and veins have been cut through), even if it is still attached by

⁸² Rambam, *Laws of Forbidden Foods* 6:3.

⁸³ *Hatam Sofer Yoreh De'ah* ch. 339: a long period of stopped breathing is not proof of death for humans. See *Igrot Moshe Yoreh De'ah*, vol. 2, 146.

*For non-*kosher* slaughter, the main artery in the animal's neck should be cut so it will "bleed out." *Even if a strong electric shock is applied to kill the animal by cardiac arrest* (versus merely to facilitate the slaughter, or to render the animal insensitive), a further means such as decapitation or complete bleed-out is needed before skinning or butchering begins. This will insure that the heart has permanently stopped pumping, after which the animal is considered dead (even if the heart fibrillates for a little longer).

⁸⁴ *Dr. Temple Grandin, a humane-slaughter expert, shared the following in an on-line forum on April 23, 2002: "If an animal is completely bled out, the heart will be stopped. The [U.S.] Humane Slaughter Act states that the animal must be in a state of surgical anesthesia. In normal slaughtering procedures, the animal is bled out, ... ideally [for] about five minutes. One of the most important factors to ensure a good bleed out is the skill of the person... In large plants with a power chain, there is an enforced bleed time. Small plants do not have this [and] ... must be very careful to allow the animal to completely bleed out prior to skinning or leg removal... [An animal can return to sensibility] if bleeding is poorly done... [So] plant management needs to supervise and do internal quality audits on animal handling and stunning... The [main] problem with sticking [for bleed out] is making an opening that is too small... [When the heart has stopped,] body movements can [still] occur... There are no humane slaughter regulations for poultry in the U.S., although there are voluntary industry guidelines."

the skin, the animal is certainly dead even though its heart continues beating for several moments. The prohibition against meat or organs removed from a living animal does not apply to it in this condition.⁸⁵

11. As explained, if flesh is removed from an animal while it is still convulsing in its death throes, this flesh is forbidden for Gentiles to eat. Thus, if flesh is removed from an animal in its death throes while any of the following apply, it remains forbidden to be eaten forever:

- a) if the animal's backbone was broken at the base of the neck, with most of the flesh of the neck torn, but the head is not totally severed, and the windpipe, esophagus and most of the veins are still intact;
- b) if its body was cut in half (this applies to a half that is convulsing);
- c) if a thigh and the adjoining socket was removed;
- d) if it was torn "from the inside like a fish."⁸⁶

In these cases, although the animal has no chance of living more than several minutes, its flesh is forbidden to be removed as long as its heart is beating.⁸⁷ If a Gentile did sever a piece of meat from an animal while one of the above conditions existed, it is forbidden to eat that meat even after the animal dies. But one is not guilty of a capital sin in this situation, as explained in topic 3:2, based on the rules that apply while the animal is still convulsing in its death throes. If a Jew cut a piece of meat from an animal in this condition for his own need, it appears that a Gentile may eat from that meat after the animal dies.⁸⁸

12. If a living animal was cut into two portions – although it has been previously explained that it is forbidden to cut off any limbs or pieces of meat until the animal dies – the two sides are not considered *eiver min ha'hai*.⁸⁹ Therefore, the meat may be eaten after the animal dies.

⁸⁵ Rambam, *Laws of Sources of Ritual Impurity*, ch. 4 and beginning of ch. 2. This case is full death, so the animal is not considered to be convulsing.

⁸⁶ *This means that its back is torn, and the spine is detached.

⁸⁷ See Rambam *ibid.*, which indicates that in such cases the animal is considered dead "while it is still alive," and is forbidden. The author notes: the animal is still alive in a practical sense, and any meat removed in these circumstances is forbidden to be eaten by a Gentile forever (see topic 3:2).

⁸⁸ See topic 3:5 above: if a Jew cuts off the piece of meat for his own consumption, he may offer it to a Gentile to eat after the animal dies.

⁸⁹ This is considered an act of slaughtering, which removes the prohibition.

CHAPTER 4

Maimed or Broken Limbs

1. The following precepts apply to a limb or flesh that has been maimed at the place where it is attached to the animal's body, but which has not been detached entirely. Instead, it is still attached somewhat to the animal's body and is hanging loosely from it.⁹⁰ If the hanging part can no longer heal as might an ordinary part of the body, there are some Torah authorities who consider it as flesh or a limb that is already severed from a living animal.⁹¹ But the main opinion is that it is **not** considered to be severed from a living animal, as long as it never became totally detached during the animal's lifetime.⁹² Hence, after the animal's death, a Gentile is permitted to eat from this flesh or limb that was hanging but still attached to the animal when it died.

2. As long as the animal is living, one may not cut off a hanging limb to eat it, even if the limb could not heal. Even if the limb fell off, it is

⁹⁰ Shaḥ and *Pri Megadim Sifte Da'at* 62:7.

⁹¹ *Tosefta*, end of Tractate *Avodah Zarah*, *Eshkol Hilhot Teraifot* ch. 20.

⁹² Rambam writes in *Laws of Forbidden Foods* 5:6 that a hanging limb (hanging while the animal was still alive) is considered *eiver min ha'hai* even after the animal dies, and even if the animal received *kosher* slaughter, the hanging limb is still forbidden by Torah law, according to his opinion. Rashi and *Tosafot*, *Hullin* 74a, disagree with Rambam, saying that such a case is forbidden for Jews, but only by a decree of the Sages. For Gentiles, there is a difference of Rabbinical opinion as to whether such a prohibition exists.

The *Tzemaḥ Tzedek* (*Yoreh De'ah* ch. 63) and others hold that Rambam's opinion is that there is no prohibition for Gentiles to eat a hanging limb after the animal's death. But others disagree, including *Pri Megadim* (*Sifte Da'at* 62:9), and consider Rambam's opinion for Gentiles equal to the Torah law for Jews, that the animal's death causes the limb to be considered severed during its lifetime, and therefore prohibited to Gentiles as *eiver min ha'hai*.

Proof for the first opinion (the *Tzemaḥ Tzedek*) can be brought from the *Shita Mekubetzet Bava Batra* 20a, which quotes Rabbi Yosef Ibn Migash, who points out that there is no prohibition for a Gentile in this situation.

The lenient opinion should be followed, for several reasons:

(a) Most early authorities say clearly that the prohibition for a Jew to eat a hanging limb of a *kosher*-slaughtered animal is only a decree by the Sages upon Jews, and there is no clear prohibition stated for a Gentile.

still forbidden.⁹³

Even if a Jew slaughtered it by the ritually *kosher* method but it is still convulsing, the hanging limb is forbidden for a Gentile until the animal dies. If the Gentile cut off flesh from the hanging limb while the animal was still convulsing, the flesh is forbidden forever.⁹⁴

3. One may cut a hanging limb from an animal for veterinary reasons, or to feed to one's carnivorous animals (e.g., if it could not heal).

4. If, however, the hanging limb or flesh could still heal as an ordinary portion of the body, all Torah authorities agree that it is permitted to be

By original Torah Law, *kosher* slaughter makes it immediately permitted for a Jew to remove the flesh, but it doesn't apply for a Gentile (unless he acts as a Jew's agent). Although a Gentile may eat a hanging limb after the animal dies, this was forbidden for Jews by Rabbinical decree, as was cutting flesh from a hanging limb while the animal is still convulsing. Thus, a hanging limb is not considered severed during the animal's lifetime. If this flesh was prohibited for Jews by the Torah (instead of by Rabbinical decree), the Sages would have decreed that it is forbidden to be eaten forever by Gentiles. Rather, the Sages permitted a Gentile to eat flesh (after the animal's death) that was severed from a hanging limb of a convulsing *kosher*-slaughtered animal, since the risk that this could lead to a transgression of the actual prohibition of *eiver min ha'hai* (see footnote 72 above) is lessened.

(b) A hanging limb could not be forbidden to a Gentile and permitted for a Jew (in the original Torah Law), due to the general rule (*Hullin* 33a, *Sanhedrin* 59a) that Torah Law is always at least as strict for Jews as for Gentiles.

(c) For Jews, who have commandments regarding an animal after its death (regarding eating and spiritual impurity), there is a practical dimension to the rule that "death can confer a status of the limb having been severed while the animal is still alive." However, since Gentiles do not have these commandments, and their only prohibition from the Torah is the Noahide commandment against eating severed flesh while the animal is still alive, surely in the present situation where the animal is already dead, there is no reason to forbid a hanging limb.

⁹³ It is clear that if it fell off while the animal is still alive, it is forbidden because of *eiver min ha'hai*, as explained above in Chapter 1.

⁹⁴ *Kraiti U'Plaiti Yoreh De'ah*, ch. 62, explains that in this situation there is no leniency, as opposed to when one severs a normal limb from a *kosher*-slaughtered animal that is still convulsing (topic 3:4), since the Sages forbid a Jew to eat from the hanging limb in such a case. See footnotes 78-80 above.

eaten after the animal is slaughtered or if it died in some other way.⁹⁵

Similarly, all Torah authorities agree that the situations below are not in the category of a “hanging” or detached limb:

(a) a limb that has been dislocated, i.e., its bone has slipped from the socket joint where it is attached to the body, but it is still connected by its sinews;⁹⁶

(b) a limb that has been crushed or pounded, but it can still heal;

(c) an animal’s testicles that have been crushed or severed, but are left hanging in the scrotum and the scrotum is attached to the body (they are not considered to have been separated from the body, since they do not decay);⁹⁷

(d) if a bone is broken and it does not cut through the flesh and does not protrude outward, but instead remains entirely covered by the animal’s skin (for it is likely to heal).⁹⁸

In all of these cases, after the animal dies or is killed, all authorities agree that it is permitted to eat from any part of the dislocated or injured limb.

5. The following laws apply when a bone has been broken and protrudes outside an animal’s skin:

If the remaining skin and the flesh could cover the majority of the thickness of the broken bone and the majority of the circumference of the broken bone, were the bone to be returned to within the skin, the bone would most likely heal, and hence the limb is permitted.

If the remaining skin and the flesh would not cover the majority of the bone in this way, the portion of the broken limb below the break is considered as a maimed limb, and the difference of opinion mentioned in topic 4:1 above applies.⁹⁹

In this instance also, one may follow the more lenient view. Thus under these conditions, as long as the broken limb was not separated from the animal’s body in its lifetime, it is permitted after the animal’s

⁹⁵ Rambam, *Laws of Forbidden Foods* 5:6; *Tur* and *Shah Yoreh De’ah* 62:6.

*Regarding “mercy killing” of an injured animal, see topic 7:12 below.

⁹⁶ *Shah Yoreh De’ah* 62:7.

⁹⁷ Rambam, *Laws of Forbidden Foods* 5:7.

⁹⁸ *Beit Yosef Yoreh De’ah* 55 in the name of Ra’avad.

⁹⁹ Rambam, *ibid.* 5:8; *Shulhan Aruh Yoreh De’ah* ch. 55.

death. But if it was separated during the animal's lifetime or during the convulsions of its death throes, even the convulsions after Jewish *kosher* slaughter, it is forbidden, as explained in topic 4:2 above.

6. If a portion of the protruding bone splits off that is less than half of the bone's thickness and is separated from the body, and the remaining skin and flesh would be sufficient to cover the bone had that portion of the bone not fallen off, the remaining limb below the break is acceptable. If, however, the protruding bone splits and the portion that was separated off had the majority of the bone's thickness and/or circumference, the remaining bone is considered as if it has been cut off, because it will not heal. Hence, it is considered as a hanging limb,¹⁰⁰ and it is governed by the precepts cited in topics 4:1 and 4:2.

7. To determine whether the skin and flesh cover a majority of the broken bone, one should place the limb in its former position and then bring the flesh and skin together, and see if the majority is covered.¹⁰¹

The leniency above, allowing the flesh around a broken and protruding bone to be considered acceptable if the animal's flesh and skin covers the majority of its circumference and diameter, applies only when it is the flesh that could cover the greater part of that portion, and the skin is merely a secondary factor (to aid in the healing). If, however, the flesh and the skin play equal roles in covering the bone, it is unacceptable, because it will not naturally heal.

The above applies to a domesticated or wild mammal. With regard to a bird, by contrast, since its skin is soft, it is considered in combination with the flesh, and when the broken and protruding bone could be covered in this manner half with flesh and half with skin, the limb is acceptable.¹⁰² If, however, it could be covered in this manner only – or primarily – by the remaining skin, it is not acceptable, even for a bird.¹⁰³ It appears, however, that one may be lenient and eat from a

¹⁰⁰ *Shulhan Aruh Yoreh De'ah* ch. 55.

¹⁰¹ *Rokeiah, Taz Yoreh De'ah* 55:5.

¹⁰² *Tur* and *Shulhan Aruh Yoreh De'ah* ch. 55, based on Rashba.

¹⁰³ *Tur*, Rashba and Shaḥ, *Shulhan Aruh Yoreh De'ah* 55:16. The leniency if the bone is covered only by skin is because there is a doubt regarding the law in Tractate *Hullin* 76b, and Rambam (*Laws of Forbidden Foods* 5:8) rules leniently to permit it. The rule that doubt is ruled stringently applies to Jews.

broken limb for which only the skin (without flesh) covered the majority of the broken bone, for either an animal or a bird.

8. The leniency in topic 4:7 above is accepted by all authorities, i.e. allowing the flesh of a broken and protruding bone to be acceptable when the majority of the bone's circumference and diameter is able to be covered by the remaining flesh, but this only applies when that is the ordinary pattern. When the bone is one that is never covered with flesh but rather merely with skin (for example, the knee), it is acceptable according to all authorities for it to be able to be covered just with the remaining skin.¹⁰⁴

Even in other portions of the body where the majority of the circumference and diameter of the broken and protruding bone must be able to be covered by both skin and flesh for it to be acceptable according to all authorities, the leniency is granted in the following case: no flesh was available in that place to cover the bone in this way, rather only skin, but there were body fluids that would be between the skin and the replaced bone that the skin was able to retain.¹⁰⁴

Soft sinews that will eventually become firm (and, needless to say, firm sinews) are not considered part of the flesh and are not included when reckoning the extent to which the bone is able to be covered.¹⁰⁵

9. The flesh that is available to cover a broken and protruding bone must be healthy and largely contiguous. If, by contrast, there would be no large mass of flesh around the replaced bone, it is not acceptable if the flesh has one of the following conditions:

- (a) it is in many small pieces around the bone;¹⁰⁶
- (b) it is very thin, or separated from the bone;
- (c) it is perforated or slit in many places;
- (d) it is crushed or decayed like flesh which a doctor would remove.

In these cases the flesh is not considered as a covering for the broken

¹⁰⁴ *Shulḥan Aruḥ Yoreh De'ah* 55:8.

¹⁰⁵ *Shulḥan Aruḥ Yoreh De'ah* 55:9.

¹⁰⁶ *I.e., when one would calculate the entire amount of flesh, it would be large enough to cover the greater portion of the bone. But it is not located in large sections, and is instead made up of many small pieces.

bone.⁹⁹ Similarly, in any instance where a doctor would say that the bone would not heal, it is forbidden according to the stricter opinion.¹⁰⁷ If, despite its initial condition, flesh regenerated and can now cover the majority of the thickness and circumference of the broken and protruding bone, the limb is acceptable.¹⁰⁸

10. If an animal's limb was hanging or its bone was broken and protruding to the extent that it would have been forbidden, but it was repaired through surgery and healed, it is acceptable.¹⁰⁹ Even if the limb was severed from the body entirely, if it was restored through surgery, it is not forbidden as a limb separated from a living animal.

11. There is a Rabbinical opinion that maintains that when a land-mammal or a fowl is killed through a non-*kosher* neck slaughter in which the windpipe or gullet are slit, the lungs or the digestive tract organs are, respectively, forbidden to Gentiles as organs separated from the living animal. For since the windpipe or the gullet was slit, the lungs or the digestive tract organs are, respectively, no longer considered as attached to the body, but merely as contained within its body cavity (as in topic 2:5 above). According to this opinion, the windpipe and esophagus themselves are also forbidden, and *eiver min ha'hai* applies to those organs.

The prevailing Rabbinical opinion, however, is that these organs are not considered as having been separated from a living animal,¹¹⁰ and from the outset the prohibition does not apply. Likewise, the prohibition does not apply for any glands in the neck (for example, the thymus gland) that may be severed from below or above by the

¹⁰⁷ This is implied from Rema *Yoreh De'ah* *ibid*.

¹⁰⁸ Rambam, *Laws of Forbidden Foods* 5:8.

¹⁰⁹ *Shulhan Aruh* *Yoreh De'ah* 55:12, *Darhei Moshe* and *Taz Yoreh De'ah* ch. 62, for since it healed, it was living flesh during the entire time. Since the only prohibition for Gentiles comes from taking flesh from the animal while it is still alive, it appears to be permitted to eat this type of injured limb after the animal dies. (However, an organ transplanted from a living animal to another animal, or to a human, will remain forbidden as *eiver min ha'hai*.)

¹¹⁰ There is a discussion among the Sages in Tractate *Hullin* 33a, as to whether a Gentile may eat the intestines of a neck-slaughtered animal, since perhaps they are "severed" from the animal while it is still convulsing.

slaughter cut.¹¹¹

12. This difference of opinion applies only when the neck slaughter was not *kosher*, e.g. if it was a non-*kosher* species, or if it was performed on a *kosher* species by a Gentile. If it was performed by a Jew as a *kosher* (ritual) slaughter for the sake of consumption by a Jew, all Rabbinical authorities agree that the lungs and digestive tract organs are allowed to be eaten by a Gentile according to Torah Law.¹¹²

Likewise, if a Gentile slaughtered an animal with a neck cut but did not cut the windpipe and esophagus completely, the lungs and digestive tract organs are still permitted, since they are not completely separated from the animal but are rather hanging in it, and they are permitted like a hanging limb, as explained in topic 4:1 above.¹¹³

It appears that practically, the ruling is that intestines are permitted for a Gentile regardless of the method of slaughter, and they are not considered to be hanging by themselves in the body cavity, for several reasons:

- a) Most Rabbinical authorities do not hold that they are considered to be hanging by themselves, i.e. totally disconnected, within the body cavity. Even those who do hold this opinion do so only as a stringency because of a doubt, but this does not make something forbidden for Gentiles.
- b) The entire consideration of that opinion is to say that the intestines are left like a hanging limb, which is permitted for Gentiles after the animal dies.
- c) The entire problem of cutting off a limb while the animal is still convulsing is only a Rabbinical decree so that one should not come to eat the limb while the animal is still convulsing. See topic 3:2, footnote 72 above. In the case of internal organs, it is a very remote possibility that these parts would actually come to be eaten before the slaughtered animal has died.
- d) Since neck-slaughtering of animals is permitted by the Torah for a Gentile, he is performing an action to permit the animal's limbs and intestines to be eaten, as opposed to the type of action that is forbidden, which is cutting off a limb of the animal while it is still alive.
- e) Jewish slaughterers have always sold the carcasses that were incorrectly slaughtered, including the intestines, to Gentiles to reduce their financial loss. This proves that the prevailing custom has been the lenient view. Otherwise, the sale of these organs to Gentiles would be forbidden for Jews due to their prohibition of putting a stumbling block before "the blind" (Leviticus 19:14), i.e. before someone who is unaware ("blind") about a certain matter.

¹¹¹ *Pri Megadim Sifte Da'at* 27:2 only relates to laws of *kosher* slaughter.

¹¹² Tractate *Hullin* 33a and Rashba, as taught by Shañ *Yoreh De'ah* ch. 27.

¹¹³ *Panim Yafot Parshat Tzav*, and *Hatam Sofer Yoreh De'ach* ch. 18.

CHAPTER 5

The Precepts Pertaining to a Fetus, and to Eggs

1. The prohibition of *eiver min ha'hai* from animals begins at the moment of birth, for the verse (Genesis 9:4) states “But flesh in its blood – its life – do not eat,” which indicates that the life is in the blood. But for a fetus, prior to birth, its life is not (entirely) in its blood, but is instead dependent on both its and its mother’s blood.¹¹⁴

Therefore, one who slices up a fetus while still in its mother’s womb, and eats those pieces – regardless whether the pieces were removed before or after the mother’s demise – will not be liable for a capital sin. However, there are circumstances in which the limbs and meat of a fetus are forbidden because it will appear to an onlooker as if the transgression of *eiver min ha'hai* is being committed.

2. A fetus which was born (alive) before its mother completed the period of gestation, although it cannot remain alive (without external support, and it is therefore considered a non-viable birth), is forbidden for a Gentile to eat from it while it is still alive; however, one is not liable for a capital sin if one ate flesh that was severed from it. Only after it dies naturally or is killed is it permitted to be eaten; if the fetus was dead upon birth, it is permitted as a carcass.¹¹⁵

3. The majority of mammals are born after the mother has completed the full period of gestation; thus, one who eats from a recently born animal is liable for a capital sin, since we do not rely on a doubt that this particular animal was born from an incomplete gestation. The reason for this is because we follow the majority of cases, and the majority of mammals are born alive after a full period of gestation.¹¹⁶

¹¹⁴ This can be learned from the case of one who cuts off limbs from a fetus and leaves them inside the mother, as will be explained in topic 5:10 below.

¹¹⁵ Rambam, in *Laws of Forbidden Foods* 4:4, explains that although this animal is born, since it cannot live, it is considered an unslaughtered carcass. Nevertheless, it appears that anything that has any life must be killed before it is eaten. (If doctors save this fetus and raise it in an incubator and it lives, it is clearly regarded as a completely live animal.)

¹¹⁶ *S'dei Hemed* (Pe'at Hasadeh Ma'arehet Gimel ch. 6): also for Gentiles, in Torah Law one should consider the situation for the majority of instances.

Nonetheless, if in a particular scenario there is reason to doubt that the animal was born after a completed pregnancy (for example, if it was apparent that the mother did not carry the fetus for the full term), one who eats from it during the first seven days of its life is not liable for a capital sin, because the status of the animal is in doubt.¹¹⁷ If, however, the animal lived an entire week and is healthy, it is deemed a regular animal, and one who eats *eiver min ha'hai* from this animal before it dies is liable for a capital sin.

4. If an animal dies or is killed, it is permitted to eat a lifeless fetus that is found inside. If, however, the fetus is still alive, it is forbidden to eat from a detached limb or piece of the meat from the live fetus until it is killed. Otherwise, one would be violating *eiver min ha'hai*.

In this situation, if the fetus was carried for a full gestation, and therefore is viable, it is a living animal and one is liable for eating *eiver min ha'hai*. If the fetus was not carried for a full term, it is not considered viable, and though it is forbidden to cut and eat *eiver min ha'hai* from it, one is not liable (see topic 5:2 above).

If a Jew performs *kosher* slaughter on the mother animal, a Gentile who eats flesh from a live fetus found in its womb, that had gone through the full gestation period, is not liable, but one is forbidden to do so. (See also topic 3:4 with regard to one who eats from an animal that has been slaughtered by a Jew and is in its death throes.)¹¹⁸

*All marsupials give birth while the offspring is still in an early fetus stage, and the mother's pouch serves as an external womb. Since this is the normal manner in which these animals are born, one is liable for a capital sin if he eats flesh from a newborn marsupial after the normal gestation period, even though the animal is similar to an incompletely developed fetus.

¹¹⁷ *Shulhan Aruh Yoreh De'ah* ch. 15.

¹¹⁸ *Pri Megadim Sifte Da'at* 13:3 expresses doubt as to whether a fetus taken alive out of its *kosher*-slaughtered mother's womb is governed by all the laws of *eiver min ha'hai* for Gentiles, or if the *kosher* slaughter of the mother permits the fetus to be eaten after it (the fetus) is killed in any manner, even by severing its limbs while it is still alive. This would apply only if it was done as an act of slaughtering, by removing a major limb that will cause immediate death of the fetus [see topic 3:12, the fn. there, and fn. 110(d)].

It appears to the author that such a live fetus is forbidden to be eaten by Gentiles as *eiver min ha'hai* until it dies or is killed. Regardless, for Gentiles, a live animal always has the prohibition of *eiver min ha'hai*.

5. An animal that was delivered by Cesarean section after a full period of gestation is considered a living animal,¹¹⁹ and it must die naturally or be killed if meat is to be removed from it to be eaten. Any meat severed from an offspring after its delivery by Cesarean section, before it is killed or dies, is considered as severed from a living animal.

6. If the head of a living fetus emerges from the mother's body, the mother is considered as having given birth to a live baby. It is not necessary for the entire head to emerge. As long as its frontal head emerges (the part that is seen when looking straight on at the animal), it is considered as having been born alive;¹²⁰ at that point it becomes an independent entity from its mother (even if it retracted its head in to the mother's womb), and it is forbidden to cut from it a limb or meat while it is alive. Even if one cut off meat from a part of the live fetus that was still inside the mother's womb (after the majority of its forehead emerged) and left it in the mother's womb – regardless of whether the mother is alive or not – the meat remains forbidden, and is considered as if it was removed from a living animal.¹²¹

If the fetus dies in the womb after it has retracted its head, it appears that it is permitted to cut pieces from it and take them out while the mother is still alive (and surely one may remove the whole body) and eat them, as there is no prohibition of *eiver min ha'hai* in this case.¹²²

Practically, the argument is not regarding the whole fetus (since in any case it isn't permitted to be eaten alive), but to pieces cut or torn off the fetus. According to the lenient side of the *Pri Megadim*'s doubt, these are permitted for Gentiles, since its mother's *kosher* slaughter included the fetus inside as *kosher* meat. According to the other side of his doubt and this author's opinion, the mother's *kosher* slaughter has no effect on the fetus for Gentiles; therefore, as long as the fetus is alive it is like any other living mammal and is governed by the law of *eiver min ha'hai*. See footnotes 72 and 79.

¹¹⁹ With regard to the prohibition of *eiver min ha'hai*, an animal born by Caesarian section is considered just like one that emerged by regular birth.

¹²⁰ *Shulhan Aruh*, Taz and Shaḥ Yoreh De'ah ch. 14.

¹²¹ *Shulhan Aruh* Yoreh De'ah ch. 14.

¹²² It is forbidden to cut a dead fetus from the mother's womb (as explained in topic 5:8) because it **looks like** the removal of *eiver min ha'hai*. However, when the animal was partially born and then retracted its head, it is considered independently an unslaughtered carcass and not the mother's flesh, and it does not have any prohibition of *eiver min ha'hai*.

7. If a fetus was born or removed from the womb alive and then the fetus died or was killed, or if it emerged stillborn, it is considered as an independent dead animal and may be then eaten by a Gentile.

8. If the fetus was dead in its mother's womb and it was removed from her body – whether through the birth canal or by a Cesarean section – while the mother animal was still alive, it is forbidden as meat taken from a living animal, although one who eats from it is not liable for a capital sin.¹²³ If the dead fetus was removed after the mother animal died, it is considered to be a carcass, and a Gentile may eat from it.

9. If a fetus is removed via Cesarean section before it has undergone a full gestational period, and thus it cannot live for more than a brief period (naturally, without external life support), it is not considered to be a “born” offspring. It is, therefore, forbidden to be eaten, as it is like a limb that was severed from a living animal. However, one who eats from it is exempt from liability for punishment.¹²⁴

10. Detached pieces of the fetus that have not exited the mother's womb are not subject to the rules of *eiver min ha'hai*. Accordingly, if one severs limbs or flesh from a fetus while it is still in the mother's womb, but did not remove them from the womb, and then killed the mother or she died naturally, the pieces may be eaten.¹²⁵ (Furthermore, it appears that if the pieces were discharged from the mother's womb, they may be eaten.)¹²⁶

But if one cut off a limb from the fetus and removed it from the mother, it is subject to the prohibition of *eiver min ha'hai*. Even if one severed the head of the fetus while it was still in the womb and then removed it, the same prohibition would apply (although eating this

¹²³ As will be explained in topic 5:10, a fetus in the womb is not considered an independently living animal, but rather it is forbidden since it resembles a living animal. This applies even if the mother is killed and is still convulsing.

¹²⁴ *Minḥat Ḥinuḥ* Commandment 452: a stillborn animal is like an unslaughtered carcass and has no prohibition of *eiver min ha'hai*, but it appears that it is forbidden, since it looks like one is eating the flesh of the mother.

¹²⁵ Rambam, *ibid.* 5:9; *Shulḥan Aruḥ Yoreh De'ah* ch. 14.

¹²⁶ As this is considered waste, and we do not say this is like the case of one who causes them to separate from the body by cutting them in the womb.

would not make a Gentile liable for a capital sin). It bears noting that there is no difference in this rule whether the fetus was alive or dead at the time the limb or head was severed, for while the fetus is still in the womb, it is reckoned as a piece of the mother's flesh, and it is, therefore, as if one cut off a piece of the mother's flesh.¹²⁷

11. If the hand or foot of the fetus emerged from the mother while the mother was still alive, even if the limb remained outside the mother until the mother was slaughtered or died, it is not subject to the rules of *eiver min ha'hai* and is permitted, for it did not separate from the body of the fetus.¹²⁸ If, however, the limb that emerged was cut off while the mother was alive, regardless of whether the fetus is alive or already dead, or whether the mother was slaughtered or died while the fetus was alive, the severed limb is reckoned as *eiver min ha'hai* and is forbidden to be eaten (though one would not be liable for a capital sin).

If the limb that emerged from the womb was severed only after the mother and fetus died, it is considered as a carcass and may be eaten.

12. If the fetus exited the mother's womb feet-first, it is considered born when the majority of its body has emerged, and at that point it is no longer one unit with the mother.¹²⁹ (If it came out head-first it is considered born as soon as the majority of the forehead alone has emerged from the mother, as was previously explained.) Even the

¹²⁷ See *Lehem Mishneh Hilhot Ma'ahalot Assurot* 5:11, which explains that this is forbidden for a Jew. According to what is explained in topic 5:1 above, it should be permitted for a Gentile, but nevertheless since it appears to an onlooker as if he cut off a piece of meat from the mother, it is forbidden.

The rationale is that the Torah Law for Jews reckons the fetus as a "thigh of the mother." Thus the fetus' meat becomes permitted for Jews through the mother's *kosher* slaughter, since the fetus is linked to its mother in receiving the slaughter to become *kosher* meat. Thus, as long as its mother is not *kosher*-slaughtered, the pieces of the fetus are *eiver min ha'hai* for a Jew, like pieces from the mother.

But for Gentiles, there is no link between the status of the mother and her fetus, and neither needs *kosher* slaughter, so the fetus is not considered a "thigh of the mother" in regard to *eiver min ha'hai*.

¹²⁸ *Tzemañ Tzedek Yoreh De'ah* 63:6; it is forbidden for a Jew because the emerged limb becomes *treifah*, but this is not forbidden to a Gentile.

¹²⁹ *Shulhan Aruh Yoreh De'ah* 14:3.

minority part of the fetus which remained in the mother's body is also not considered as part of the mother. Therefore, if a limb was cut from the offspring at this stage of birth, it is *eiver min ha'hai* and thus forbidden to be eaten. If the offspring died during the birth process and then parts were severed from it, even the parts which remained in the mother (and which were later removed during the life of the mother) are not subject to the prohibition of *eiver min ha'hai*, for the dead offspring is a carcass and is, therefore, permitted (see topic 5:6 above).

13. If one limb exited and was severed, and then another limb exited and was also severed, the status of this meat depends on the following:

a) If the severed pieces constitute only a minority of the fetus, they are forbidden, for they are considered as *eiver min ha'hai* from the mother animal (as was explained previously in topics 5:10 and 5:11).

b) If the majority of the fetus exited and was cut off, it is considered as if it was born. Therefore, a piece of the fetus that remained in the womb, or was discharged, or was later removed from the womb, is considered to be a piece of carcass and is thus permitted.¹³⁰

14. Though it was explained earlier in Chapter 1 that it is forbidden to cut off limbs from an animal even if one does not intend to eat them, it is however permitted to cut off limbs from a fetus to save its mother.¹³¹

15. If a beast of prey ripped off and swallowed a limb or meat from a living mammal or bird, and afterwards the injured animal escaped, but the beast of prey was killed and the limb or meat was removed from its digestive system, it is still considered as meat from a living animal and is forbidden, on the assumption that the animal whose limb or meat was swallowed is still alive. Needless to say, this applies if limb or meat was coughed out by the beast of prey.

This law applies only if the limb or meat is found in its totality (even if it has been cut up by the teeth of the attacker). If, however, it is found to be chewed up (but it still has the semblance of a limb or meat), it is only forbidden for the first 24 hours from the time it was swallowed. Once it has remained in the digestive system of the beast of prey for more than 24 hours, it is considered as waste and not

¹³⁰ Based on *Shulhan Aruḥ Yoreh De'ah* 14:4.

¹³¹ *Tiferet Yisrael* on Mishnah *Hullin* 4:6.

flesh.¹³² (This ruling will only apply while the animal from which the limb or meat was ripped is still alive. If, however, it died prior to the removal of the swallowed meat from the abdomen of the beast of prey, it seems that the prohibition of *eiver min ha'hai* no longer applies.)¹³³

16. The following rules apply if one struck a bird and caused an egg it was carrying to fall out.¹³⁴ If the egg is fully developed with both a white and a yolk (although the shell is not formed, and the egg is still in a soft membrane), it is permitted, for then it is already considered as independent from the mother.¹³⁵ If, however, the egg still requires the mother for development, it is considered as part of the bird organs,¹³⁶ and it is considered as flesh removed from a living animal.¹³⁷

If a bird lays eggs naturally, even if they are not fully developed,¹³⁸ or one slaughters or kills a bird and discovers underdeveloped eggs inside that were still dependent on the mother, the eggs are permitted.

17. A chick that it is being formed in its egg, until it cracks the eggshell, is not considered a bird, but has the status of a *sheretz*-type

¹³² See: *Taz, Pri Ĥadash*, and *Kraiti U'Plaiti, Yoreh De'ah* end of ch. 83; and *Shulĥan Aruĥ HaRav Oraĥ Ĥayim* 467:63.

¹³³ This is because the separating of the limb was not done through a person, but rather by the beast of prey. The situation involved is after the death of the attacked (victim) animal, but during its life the limb was not available. As explained in topic 3:1, the basic prohibition is eating a limb during the life of the animal, but after its death it is only a Rabbinic prohibition. Therefore, it appears that for this situation, the Rabbis did not make a decree to forbid this. As well, after it was swallowed, there is a question as to whether something that was swallowed is still considered food, or if it is immediately considered waste. Therefore, it seems that this swallowed limb is permitted.

¹³⁴ *Birds, most reptiles (including most lizards, turtles and snakes), and monotreme mammals (the echidna and platypus) reproduce by laying eggs that have protective shells. The rules in this and the following topic apply equally to birds and to any other of these creatures and their eggs.

¹³⁵ The comparison to a Caesarian section can be found above, in topic 5:5.

¹³⁶ Rambam, *Laws of Forbidden Foods* 3:7.

¹³⁷ *Shulĥan Aruĥ Yoreh De'ah* 86, and *Minĥat Ĥinuĥ* Commandment 452.

¹³⁸ Though *Ĥatam Sofer (Yoreh De'ah* ch. 19) questions whether eggs might be forbidden to Gentiles as *eiver min ha'hai*, all other authorities permit it; the egg is naturally released when it is no longer part of the mother's body.

creature.¹³⁹ Thus, it appears that if one took it out of the egg and cut off a limb from it, the meat has no prohibition of *eiver min ha'hai*.

18. There is a difference of opinion with regard to worms that are found inside a mammal or bird, e.g. in its lungs, in its limbs, or beneath its skin during its lifetime. There are some opinions that maintain that they are considered as part of the animal's meat. Hence, if these worms remain alive after the animal's death, they can be considered as meat from a living animal. According to these views, it is forbidden to cook this meat together with these worms, for even after the worms die, they are forbidden. Other authorities, however, do not forbid these worms.¹⁴⁰ (Worms, or any larva, that grow in the meat of a carcass are permitted.¹⁴¹)

19. This applies to worms that grow in an animal. On the other hand, worms that enter the animal's body from the outside, through its mouth, nose, skin and the like, are permitted and may be cooked with the animal's meat. If there is a doubt regarding whether they grew in the animal or entered from the outside, they are permitted.¹⁴²

The reason is because it is only regarding Jews that there is a debate as to why bird eggs are permitted in general, since a Jew must eat only *kosher*-slaughtered meat, but eggs come from birds that have not been slaughtered. For Gentiles, who do not need *kosher*-slaughtered meat, the prohibition of *eiver min ha'hai* is not dependent on the laws of *kosher* slaughter. Since the egg is naturally released from the bird at the point when it is no longer a part of her body, it is not "*min ha'hai*" (severed from a living animal).

This explanation follows *Zehar Yitzhak* ch. 33, which makes this distinction between the separate prohibitions of *eiver min ha'hai* for Jews and for Gentiles. See footnote 63 above.

¹³⁹ Rambam, *Laws of Forbidden Foods* 3:8 and *Shulhan Aruh Yoreh De'ah* ch. 86; "*sheretz*" is defined in topic 1:7 above. Although it is forbidden to cut a limb from the chick because of the prohibition against causing pain to a living animal, it may still be permitted for the purpose of human healing.

¹⁴⁰ See *Pri Megadim Sifte Da'at* 84:42; *Mishbetzot Zahav* 84:21; Responsa of Rabbi Shneur Zalman ch. 15; *Tzemaḥ Tzedek* (*Yoreh De'ah* ch. 63); Responsa *Beit Shlomo* (*Yoreh De'ah* ch. 81); *Maharsham Daat Torah* (*Yoreh De'ah* 41:17).

¹⁴¹ *Shulhan Aruh Yoreh De'ah* ch. 84.

¹⁴² Doubt in Torah law is ruled leniently for Gentiles; *Daat Torah ibid.* 41:14.

CHAPTER 6

Deriving Benefit from Meat Severed from Living Animals; Cases with a Doubt, and Mixtures with Forbidden Meat

1. Meat severed from a living mammal or bird is forbidden to be eaten. However, if meat does become severed, one is permitted to derive benefit from it.¹⁴³ For the Biblical proof text, “But flesh with its soul, its blood, you shall not eat,” prohibits eating, but does not mention deriving benefit. Therefore, it is permitted to use such meat for work or any type of benefit other than eating.

2. Severed meat may thus be sold as non-food for profit. One may not, however, sell it to a person whom one knows will consume it, for that is considered as feeding him a prohibited substance, and Gentiles are forbidden to cause each other to transgress (see Part I, topic 4:7).

3. Torah prohibitions against eating involve eating a forbidden food in its ordinary manner and form. If meat has been processed and changed to the extent that it is no longer considered a “food,” there is no prohibition, because it is no longer related to a normal way of “eating.” Therefore, if a piece of *eiver min ha’hai* meat has been changed to the extent that it is no longer in the category of human food – for example, if it has been dried and made into a powder that itself would not be eaten in the manner of food – the prohibition is removed.¹⁴⁴

4. When it is customary to eat the meat of a particular species of mammal or bird raw, the conditions on liability to punishment for eating meat removed from a living animal (topic 3:1) apply if the meat is eaten raw or cooked.

¹⁴³ Tractate *Pesahim* 22b; Maharil ch. 161.

*A Gentile commits a capital sin only by specific violations of the Noahide Laws. Still, governments may decide if, or how, violations of other aspects of the Noahide Code (e.g., cruelty to animals) will be punished by the courts.

¹⁴⁴ *Pri Megadim Yoreh De’ah* 62:1, 4. It appears that even if one used this powder to make normal food, it is permitted, as the original form is nullified.

*Thus the prohibition against eating *eiver min ha’hai* doesn’t apply to most meat-derived vitamins, nutritional supplements, or gelatin products.

If it is not customary to eat meat of a particular animal species raw, one is not liable to punishment for eating *eiver min ha'hai* unless the meat is cooked. Nevertheless, eating it raw or cooked is forbidden.¹⁴⁵

It is not the ordinary practice to consume raw animal fat, so one who eats raw fat taken from a living land mammal is not liable.

If one cooks *eiver min ha'hai* fat and makes it into an edible liquid, one is liable for drinking it.¹⁴⁶ However, one who drinks boiling fat that is *eiver min ha'hai* is not liable, for this is not the common manner of consuming it, and it is not fit to be eaten in this state (i.e., this is not an edible form of the food). Nevertheless, it is forbidden to do so.¹⁴⁷

5. Even when there is no transgression of eating *eiver min ha'hai* meat, it is still forbidden to cut off meat or limbs from any living animal to derive benefit from them. Although God granted mankind dominion over the animals, He did not grant permission to cut off their limbs and flesh. Only when a limb or meat was found already severed is it permitted to use this for some non-food purpose.

6. One is only liable to punishment for eating meat that was taken from a living animal. If, however, one cooked the meat and consumed the sauce, or squeezed out the juices from the meat and drank that, he is not liable.¹⁴⁸

Similarly, if one cooked this meat together with other foods and the forbidden meat imparted its flavor to those foods, one is not liable for consuming the other foods. Likewise, if one sucks the juice from *eiver min ha'hai* meat but does not eat the meat, he is not liable.¹⁴⁹

It is nevertheless forbidden to deliberately cook or mix meat that was severed from a living land mammal or bird with other foods, for the purpose of benefiting from the forbidden flesh. It is appropriate to forbid food with which such *eiver min ha'hai* meat was cooked. This

¹⁴⁵ See *Tosafot*, Tractate *Pesahim* 24b.

¹⁴⁶ Tractate *Pesahim* 24b; Rambam, *Laws of Forbidden Foods* ch. 14.

¹⁴⁷ *Ibid.* Even though a Gentile is liable for eating the smallest amount of *eiver min ha'hai*, this applies only when it is in an edible form.

¹⁴⁸ *Kraiti U'Plaiti* ch. 81; Responsa of Rabbi Shneur Zalman ch. 15; *Ĥatam Sofer Yoreh De'ah* ch. 106. The prohibition of a permitted food if it absorbed the gravy of a forbidden food is only a precept for Jews.

¹⁴⁹ This is not considered in Torah law to be a normal method of eating.

applies when one intentionally cooked meat taken from a living animal with other food. If, however, such meat accidentally fell into a pot and imparted its flavor into the other food, there is no reason to forbid the original food, but the forbidden piece of meat remains prohibited.¹⁵⁰

7. If fat that was severed from a live animal was then cooked with other foods, and it became indistinguishable from the total dish, then the whole mixture may be eaten, for the forbidden fat is nullified in the general mixture. If, however, the fat's flavor is identifiable, even if the fat constitutes merely a minority of the total mixture and is completely blended with the rest of the dish, then the entire mixture is forbidden. For when the flavor of the forbidden fat is distinguishable, it is deemed as if the fat itself is apparent.¹⁵¹

It must be noted, however, that the abovementioned rule applies only when the fat was mixed with a different type of food. If, however, the forbidden fat was mixed with permissible fat that has the same taste, then the majority of the food becomes the decisive factor. If the majority of the mixture is permissible food, the mixture is permissible; if not, then it is forbidden.¹⁵²

8. A Gentile does not have a prohibition in cases of doubt. Therefore, a Gentile transgresses only if he definitely recognizes that aspect of the action that is forbidden.¹⁵³ So, for example, if there is an unresolved

¹⁵⁰ Many later Rabbis agree that for Gentiles, the flavor is not considered as if it is the meat itself. See *S'dei Hemed (Pe'at Hasadeh Ma'arehet Gimel 6:18)*.

¹⁵¹ See Rambam, *Laws of Forbidden Foods* ch. 15.

¹⁵² *Ibid.* 15:4.

¹⁵³ *This is not the same as the case of topic 4:2 in Part I. There, it deals with an action that is definitely a transgression of the Noahide Code, but the person is unaware that he is committing that transgression. An example would be if a boy and his maternal sister were separated from each other as children. Years later, the grown boy met a woman and they married, not knowing that she was his sister. While they are unaware of this, they are not liable to punishment for having marital relations. If it is discovered, and they stop having relations from that point on, they are not punished after the fact.

In the case discussed here of an accidental mixture of *eiver min ha'chai* meat with permitted meat, before the action of eating, the person is faced with a situation of doubt as to whether or not a piece of meat is forbidden. In this case, from the outset, the person is permitted to eat the doubtful meat.

doubt as to whether or not a piece of meat is *eiver min ha'hai*, it is permitted for a Gentile to eat it.¹⁵⁴

9. If a piece of *eiver min ha'hai* meat accidentally became mixed with a piece of permitted meat and it is impossible to distinguish the forbidden piece, then there is a doubt regarding each piece as to whether it is permitted or forbidden. In such a case, a Gentile may eat any doubtful piece from the mixture.¹⁵⁵ Nevertheless, one Gentile may not consume the entire mixture, for then he is definitely consuming forbidden food.

The mixture may, however, be divided among two Gentiles, and each one is permitted to eat his share of the mixture.¹⁵⁶ Likewise, it is permitted to throw away one piece and eat the one remaining.

10. If a piece of *eiver min ha'hai* meat becomes accidentally mixed with two or more permitted pieces of meat and it is impossible to distinguish between them, we do not say that the forbidden substance is nullified and becomes permissible because of the larger amount of the permitted substance. It is still forbidden for one Gentile to consume the entire mixture,¹⁵⁷ even if he interrupts his eating (for example, if he eats part of it on one day and the rest on another day).

The leniencies mentioned above apply only when the forbidden meat and the permitted meat were mixed together accidentally. It is forbidden to purposely create such a mixture to enable the forbidden

¹⁵⁴ *S'dei Hemed Ma'arehet Gimel Pe'at Hasadeh* 6:3.

¹⁵⁵ *If multiple pieces of forbidden meat became mixed with permitted meat, the entire mixture is forbidden if the majority is *eiver min ha'hai*. If less than half is *eiver min ha'hai*, one Gentile may eat from it until the number of pieces left is the same as the number of pieces of forbidden meat that were originally mixed in. Up to that point, there is a doubt regarding whether or not he has eaten forbidden food. But one Gentile may not have the intention to eat more than this amount, for then he will definitely be intending to eat *eiver min ha'hai*.

¹⁵⁶ See *S'dei Hemed*, *ibid*. See also *Pri Megadim* (introduction to *Orah Hayim*): even if a prohibited piece of meat is within the mixture, so long as a doubt exists as to which piece is forbidden, the mixture is permitted for Gentiles (but one person may not eat all the pieces of meat).

¹⁵⁷ *Hatam Sofer Yoreh De'ah* ch. 19.

piece of meat to be permitted. If one does so, as a penalty he is personally forbidden to eat any meat from the mixture, and he is forbidden to benefit or derive pleasure from it in any way – for example, by selling it or giving it to his family, friends or pets.¹⁵⁸ It is, however, permitted for him to give it away for free to other Gentiles who might take from it, if it will be divided between two or more people.¹⁵⁹ Likewise, he may remove and discard at least one doubtful piece and give the remainder for free to one other Gentile.¹⁶⁰

11. When there is a life-threatening situation and food is required, a Gentile may eat from meat severed from a living animal, for a Gentile is not required to sacrifice his life to uphold his commandments.¹⁶¹

¹⁵⁸ This is logical. Just as a Jew is liable to a penalty for deliberately mixing forbidden items with a majority of permitted items (*Yoreh De'ah* ch. 99), the same prohibition should apply for Gentiles. If not, then the prohibition of *eiver min ha'hai* would come to be disregarded.

¹⁵⁹ *In this case, he must notify the other Gentiles of the nature of this mixture of food, lest one person eat the whole mixture, which definitely will include forbidden meat.

¹⁶⁰ *In this case, he does not have to notify the recipient that it might contain forbidden meat.

¹⁶¹ *Hatam Sofer Yoreh De'ah* ch. 70, and *Maharsha Nedarim* 31b. For a Gentile, the obligation to survive a life-or-death situation is an overriding duress; see Part I, topic 4:3.

CHAPTER 7

Restrictions on Causing Suffering to a Living Creature

1. As implied from the statement of the Torah,¹⁶² “And you shall rule over the fish of the sea, the fowl of the heavens, and all beasts that swarm on the earth,” Adam was granted dominion over all living things and given permission to use them to perform any labor or tasks.¹⁶³ Noah was also granted permission to kill an animal to eat any part of its flesh, and to use portions of its body for other useful purposes (for example, its hide for clothing and its bones to fashion utensils).¹⁶⁴ Mankind was not, however, granted permission to kill or wound any animals purposelessly, or to cause them unnecessary pain.¹⁶⁵ This is not permitted with regard to any animal, even fish, *sheretz* creatures, reptiles, or other small crawling creatures.¹⁶⁶

2. If animals are causing pain or discomfort to humans, it is permitted to harm or even kill them. For when there is an advantage to a person, it permits one to overlook the pain caused to an animal, as we see from the permission God granted to mankind to slaughter animals for food.

Therefore, if a person requires parts of an animal for medical reasons or for other human needs, there is no prohibition against causing the animal pain in the process, *if there is no other way available to fulfill*

¹⁶² Genesis 1:28.

¹⁶³ Tractate *Sanhedrin* 59b.

¹⁶⁴ *Taz Yoreh De'ah* 117:4.

¹⁶⁵ See Ramban on Genesis 1:28, and *Guide for the Perplexed* vol. 3, ch. 48, which explain that a reason for *eiver min ha'hai* is because of the prohibition of causing pain to a living creature; therefore, where a human does not derive a necessary direct benefit from the pain, it is forbidden. In *Guide for the Perplexed* vol. 3, ch. 17, Rambam notes that this can be seen from the story of Bilaam and his donkey in Numbers 22:27-32, when the angel showed Bilaam that he was hitting the animal needlessly, and, therefore, asked him why he was causing the animal pain.

*The Rabbinical term for such an act is the causing of “*tza'ar ba'alei hayim*,” which is pain or suffering of living creatures.

¹⁶⁶ *Igrot Moshe Hoshen Mishpat*, vol. 2, ch. 47.

the need.¹⁶⁷ Therefore, it is allowed, for example, to remove the feathers of living geese if one requires feathers and does not have any others available. (It is, however, undesirable to do this, because it is an act of cruelty that causes much pain.)¹⁶⁸

It is forbidden to skin a living animal, for this will surely cause the animal to die while suffering greatly in the process. Hence, it should first be slaughtered and then skinned.

If one needs only a small portion of the skin, which would not cause the animal to die, it is not necessary to kill it first;¹⁶⁹ however, this is only permitted in cases of dire need, as there is an element of cruelty in doing so. Similarly, if one needs a small fraction of an animal's blood, one may obtain the needed blood while the animal is alive.

3. If one wishes to kill any creature in order to eat it, he has no permission to be cruel and cause it *needless* suffering in the process. An example would be one who keeps birds, and when he wishes to prepare them for food he drops them alive into a pot of boiling water.

If there is a needed benefit for a person to do so, even such as the case of certain creatures whose taste is better when they are boiled alive, it is not forbidden to do so. If not, one is obligated to kill the animal first in a less painless way, even if this takes a little extra effort, since this is not enough of an excuse to permit causing such suffering to a living creature.¹⁷⁰

4. It is permissible for a person to kill an animal or bird to feed his

¹⁶⁷ *Compassion also dictates that if possible, an animal should be made surgically insensitive before it is subjected to a major surgical procedure.

¹⁶⁸ Rema Even HaEzer ch. 5; Shulhan Aruh HaRav Hilhot Ovrai Dera'im ch. 4; Nemukai Yosef Bava Metzia, end of ch. 2.

¹⁶⁹ This is like the rule of pulling feathers from birds, in which it is better when possible not to kill the bird, even if one causes it *temporary* pain. This can be seen from Tractate *Hullin* 7b; see footnote 11 above.

¹⁷⁰ See footnote 11 above: it is explained in *Sefer HaHinuh* and Ran that the prohibition of causing pain to an animal also exists in regard to killing the animal in an unnecessarily cruel way. Only when there is a necessary benefit for humans is one not obligated to take the pain caused into account, and even then it is preferable to take the pain into account.

*A Gentile may cook (for food) an unbroken egg with the chick inside.

dogs or other carnivorous pets,¹⁷¹ since he has responsibility for them. In contrast, it is forbidden to do so for ownerless dogs or wild beasts, since he derives no practical benefit from feeding them, and a human has no permission to kill one animal just for the sake of another.

5. It is not allowed to cause needless pain to an animal through any act that directly causes it suffering, even an act like removing its food to aggravate it. If, however, an animal is dying, feeling hunger, or suffering pain, a Gentile is under no specific obligation to relieve its suffering.¹⁷² Nevertheless, it is proper to go beyond the letter of the law and show mercy to the created beings, by doing whatever is possible to alleviate their suffering (but see topic 12 below).

If an animal – even an ownerless animal – is starving, it is desirable to provide food for it, or to provide it with water if it is suffering from thirst. One may, however, strike the animal lightly to prevent it from returning to him continuously.¹⁷³ Needless to say, it is an act of cruelty for a person to refrain from feeding animals, fowl, or fish that rely on him for their sustenance.¹⁷⁴

It is nevertheless forbidden to draw an animal into a fenced-in area where it cannot graze and will eventually die, for this is an intentional act of causing the animal pain.¹⁷⁵

6. Similarly, it is permitted to strike an animal to prod it to perform work or other activities on behalf of a person. One is not, however, permitted to beat it severely (i.e., with cruelty).¹⁷⁶

¹⁷¹ *Shulḥan Aruḥ Yoreh De'ah* 1:5 and Shaḥ there; *Shulḥan Aruḥ HaRav Yoreh De'ah* 1:40.

¹⁷² See *Shulḥan Aruḥ HaRav Hilḥot Ovrai Deraḥim* ch. 3, that shows that Jews are also not obligated to save an animal from death and hunger, and the Jewish obligation to unload a beast of burden that collapsed under its load is intended for human benefit; see Rambam, *Laws of Murderers* ch. 13.

¹⁷³ Tractate *Shabbat* 155b, and *Shulḥan Aruḥ HaRav ibid.*

¹⁷⁴ Rabbi Zalman Nehemiah Goldberg notes that the directive to Noah (Genesis 6:21), “for you and them to eat,” implies that there is no obligation for a Gentile to feed his animals before himself.

¹⁷⁵ *Nodah Bi'Yehudah* vol. 1 (*Yoreh De'ah* ch. 81), based on *Tosafot Sanhedrin* 80a.

¹⁷⁶ See *Shulḥan Aruḥ HaRav Hilḥot Ovrai Deraḥim* ch. 8.

7. One may poison a dog that causes harm, causing it to die,¹⁷⁷ and one may kill any beast or vermin that causes one aggravation.¹⁷⁸ Needless to say, it is permitted to banish pests from one's property.¹⁷⁹

8. Similarly, it is permitted to kill any animal that causes hardship to people at large.¹⁸⁰ One is not, however, permitted to kill, or torture, an animal to increase one's honor or for sport or entertainment alone.¹⁸¹

9. It is permitted to perform sensible scientific experiments with animals to test drugs and other remedies, to determine whether they are possibly beneficial or safe for humans.¹⁸²

10. If the wing of a fowl or the foot of an animal is broken but still attached, it is incorrect to remove it with the thought that it would be a stumbling block for others, as *eiver min ha'hai*. (See Chapter 4 above, which explains that a maimed or broken limb that is not detached from the body is permissible for a Noahide to eat after the animal is killed,

¹⁷⁷ *Baḥ* and *Taz*, *Yoreh De'ah* ch. 116.

¹⁷⁸ This is clear from *Shulḥan Aruḥ HaRav Oraḥ Ḥayim* 116:18, and *Igrot Moshe Ḥoshen Mishpat*, vol. 2, ch. 47.

¹⁷⁹ This is like the story in Tractate *Bava Metzia* 85a of the maid in the home of Rebbi (Rabbi Yehuda the Prince), who found young weasels in the house. Surely her intention to sweep out the pests was permitted by Jewish law. However, Rebbi protested that she should leave them be, because he wished to act piously (beyond the letter of the law).

*This includes, for example, the use of insecticides, insect traps, lethal or non-lethal rodent traps, and rodent poisons. However, methods that cause prolonged painful suffering to the trapped creature (such as glue traps for mice) should be avoided if there are other effective alternatives.

¹⁸⁰ *Pri Ḥadash Yoreh De'ah* 53:7, and *Pri Megadim Yoreh De'ah Mishbetzot Zahav* 53:9.

¹⁸¹ It can be derived from the discussion in Tractate *Sanhedrin* 55 that one may not kill an animal for one's honor, since an animal is not even killed if it can be recognized as one which bestialized a Gentile. Though the donkey of Bilaam was killed for the sake of his honor (Rashi on Numbers 22:33), this may be different as he was honored as a prophet.

*This includes classic examples such as bullfighting, bull-baiting, bear-baiting, dog fighting and cock fighting.

¹⁸² *Shevut Yakov*, vol.3, ch. 71. [Laws should be made to regulate such tests.]

and it does not fall under the prohibition of *eiver min ha'hai*.)

If one wishes to sell the animal to others for eating purposes, and there is a reasonable chance that they will cut off the broken limb while the animal is still alive and eat it, one should nevertheless leave the limb attached. The uncertainty of someone else transgressing the prohibition of *eiver min ha'hai* does not supersede the transgression of causing unnecessary pain to animals.¹⁸³

It is obvious that one may remove a broken limb of an animal or bird for the sake of healing the injured creature.¹⁸⁴

11. It is not allowed to tread on or drive a vehicle over a wounded or sick animal that is lying on the road. Instead, one should make a detour around it.¹⁸⁵ If one has no alternative way other than to step on or drive over the animal, it is permitted, as the needs of a human take priority.

Similarly, if one sees a healthy animal on the road, it is forbidden to drive into it or over it, if there is a safe alternative.

12. It appears to the author that a person has no permission to perform a “mercy killing” of an animal. If an animal is sick or injured, even if it will surely die, one should not kill it just because he desires to end its suffering,¹⁸⁶ but rather only if a needed human benefit can be obtained.

13. Hunting an animal is permitted only when it is necessary for human benefit, e.g., to eat the meat of the animal or use its hide or fur. Hunting merely for the sake of sport is not permitted because of the pain caused to the animal. This applies even to beasts of prey when they are in their natural habitat, where they do not pose a threat to humans. However, one is allowed to pursue and kill wild animals

¹⁸³ See *Pri Ĥadash ibid.* and *Pri Megadim ibid.* (This seems to be the ruling, as a Gentile is not commanded to remove something that could cause another to sin, and may not do so at the expense of causing pain to an animal.)

¹⁸⁴ From Tractate *Bava Batra* 20a and Chapter 1 above, it is forbidden to cut a limb from a living animal, but that is only when there is no purpose at all. But it is permitted for the purpose of healing the animal; see footnote 186.

¹⁸⁵ *Kesef Mishneh Laws of Murders* 13:11.

¹⁸⁶ Although one can say that this act causes no pain to the animal, this is still forbidden if it has no human benefit. One cannot say it is for the animal's benefit, as God did not assign humans to be judges over what is good for an animal in such a case; see Tractate *Bava Batra* 20a and *Tosafot* there.

when they approach an inhabited area, if there is a practical danger that they will cause physical harm to humans, or financial harm through destruction of livestock or physical property.¹⁸⁷

Capturing animals and putting them in a zoo for human pleasure appears to be permitted, since this human benefit overrides the animal's discomfort. Likewise, it is permitted to raise docile animals in captivity, since a person has pleasure in seeing these animals, and it can alleviate a person's loneliness. This is not comparable to one who hunts animals needlessly, even though a person gets pleasure from hunting, since by hunting he derives pleasure from the actual suffering of the animal, which is forbidden. In contrast, for animals in a zoo or raised in captivity, the person derives pleasure from seeing or being with the animal, and a small discomfort caused to an animal by not living in its natural habitat is overridden by the benefit to the person (who has a pet) or to large numbers of people (who visit a zoo).¹⁸⁸

14. A Gentile is not forbidden to castrate or neuter any male or female animal,¹⁸⁹ if it is done specifically to facilitate the use of the animal by humans, e.g., gelding a horse to make it easier to ride, or spaying a pet so it will not bear offspring in the owner's home.¹⁹⁰ (A reasonable effort should be made to reduce the amount of pain.) It is forbidden to perform such operations if there will be no direct benefit to a person.

15. It is permitted to de-claw an animal if this will benefit a person, for example, if it is needed to prevent the animal from causing damage.¹⁹¹

¹⁸⁷ *Nodah Bi'Yehudah* vol. 2 *Yoreh De'ah* ch. 10.

*However, the ruling government has the authority to limit the killing of particular species of wild animals (e.g., endangered species) in its domain.

¹⁸⁸ *Needless to say, a zoo or a pet owner should not subject an animal to cruelly inhumane conditions. Rather, there is a responsibility to provide a reasonable degree of comfort to the animal (and doing so will also increase the pleasure which people will be able to derive from the animal).

¹⁸⁹ Meiri on Tractate *Sanhedrin* 56, and this is the opinion of Rambam. In *Shulhan Aruh Even HaEzer* 5:14, this is the majority opinion.

¹⁹⁰ It is clear that it is forbidden to castrate an animal in a painful way, such as tearing off the testicles. It is unclear if castration in a painless way is forbidden. Nevertheless, if there is no necessary benefit for humans, this is completely forbidden; see the footnote to topic 7:12 above.

¹⁹¹ Tractate *Hullin* 7b; Tractate *Avodah Zarah* 11a, and *Tosafot* there.

CHAPTER 8

The Prohibition Against Mating Different Species of Animals

1. According to the Torah's Oral Tradition,¹⁹² it is forbidden for Gentiles to cross-mate different species of animals¹⁹³ (and to cross-graft certain species of trees, as explained in the next chapter). Nevertheless, since these prohibitions are not explicitly stated in the Torah, the Torah does not make Gentiles liable to physical punishment for their violation.¹⁹⁴

2. The universal prohibition against cross-mating of animals applies to causing the copulation of any male and female of two different species. This applies regardless of whether they are two different species of domestic animals, or two different species of wild animals, or if it is a domestic animal species and a wild animal species. This prohibition encompasses all species that humans can coerce or force to cross-copulate, including land and sea mammals,¹⁹⁵ birds,¹⁹⁶ and even reptiles and amphibians.¹⁹⁷

¹⁹² The words "Oral Tradition" here, quoted from the Rambam, *Laws of Kings* 10:6, refer to the Torah Laws given by God to Moses at Sinai that were not written clearly in the Torah, but instead were transmitted orally to the Jewish people by Moses. This is not a reference to later Rabbinical enactments of the Sages. See Rambam, *Introduction to the Mishneh Torah*.

¹⁹³ *Note that *hybridism* derives from the Latin *hybrida* (to insult or outrage).

¹⁹⁴ Rambam, *Laws of Kings* 10:6. A Gentile is liable for a capital sin only if he violates one of the specific seven Biblical Noahide commandments. Violations of other aspects of the Noahide Code (based on the Oral Tradition or later Rabbinical enactments by the Sages) are forbidden, but the Torah does not require these secondary transgressions to be punished in a court of law in the physical world.

¹⁹⁵ *Tur* and *Perisha Yoreh De'ah* ch. 297. But a prohibition of cross-copulation is not applicable to classes of creatures that in general do not mate by vaginal or cloacal copulation; see *Tosafot* on Tractate *Bava Kama* 55, regarding fish.

¹⁹⁶ Rambam, *Laws of Forbidden Mixtures* ch. 9; *Shulhan Aruh Yoreh De'ah* ch. 297.

¹⁹⁷ See Tractate *Hullin* 127a. These are all creatures that the Torah mentions as part of creation with the term "according to its kind" (Genesis 1:21-25).

3. It is forbidden to cause animals of different species to mate,¹⁹⁸ even if the union cannot lead to procreation¹⁹⁹ (for example, if the two species cannot produce offspring from each other, and obviously if the mating of the two species can in general produce offspring, but the two individuals are physically unable for whatever reason, such as illness, injury, sterilization, or old or young age). This is implied by the verse,²⁰⁰ “do not cross-mate your animal,” which instructs that the activity of directly causing cross-copulation itself is forbidden, even if no procreation can occur.

This commandment does not encompass the act of copulating one male creature with another, although it appears that this violates the prohibition of causing unnecessary suffering to living creatures.²⁰¹

4. It is forbidden to cross-mate not only one’s own animals, but also those belonging to others²⁰² or which are ownerless. Similarly, one

¹⁹⁸ *The Torah does not explicitly give a biological definition of a “species”. What is forbidden is to cross-mate one *min* with a different *min*, where the Hebrew word *min* is often translated as a “kind”. Genesis 1:24 says that God caused the earth to bring forth living creatures, each according “to its kind” (*l'minah*). For birds, the word for “according to its kind” appears in the list of some non-kosher “kinds” of birds in Lev. 11:13-19. From the Oral Tradition, the Sages cited nominally similar types of animals that are either of the same or a different *min* (which we translate here as “species” in regard to mating; see topics 8:6-10 below. (In biology, *F1 hybrid* is the term for an offspring that results from the cross-mating of distinctly different parental types.)

¹⁹⁹ *Hatam Sofer Yoreh De'ah* ch. 297.

²⁰⁰ Leviticus 19:19.

*Even though this is a commandment specifically for Jews, according to the Oral Tradition it also applies to Gentiles. Tractate *Sanhedrin* 60a teaches in reference to this verse that the Torah’s statutes regarding general laws related to the creation are also incumbent upon Gentiles, so it follows that making changes to the original order of creation is universally forbidden. (This calls into question the permissible scope of modern-day genetic engineering of animals. See topics 8:11 and 8:15, and the last footnote in Chapter 9 below.)

²⁰¹ Causing copulation of male creatures is not considered to be a form of mating, but nevertheless it seems to be forbidden, since it causes pain or distress to the violated animal.

²⁰² Rambam *Laws of Forbidden Mixtures* 9:1.

may not instruct others to cross-mate animals.²⁰³

5. The prohibition against cross-mating animals involves any act that will directly cause their mating, be it inserting the male organ into the female organ, raising the male upon the female, or encouraging them to mate by other means.²⁰⁴

Nevertheless, it is permitted to put males and females of two different species in the same enclosure. If they mate of their own accord, one is not obligated to separate them.²⁰⁵

If, however, one knows that a worker, partner, or the like will cross-mate them if they are in the same enclosure, it is forbidden to place them there.²⁰⁶

There are differing Rabbinical opinions as to whether it is forbidden to enclose a pair of different species together if it is known that they will certainly cross-mate – for instance, introducing a female donkey or mule into the corral of a male horse that desires to mate.²⁰⁷ The resolution of this question remains in doubt, so from the outset it should not be done.

6. Even if two different species of animals or beasts appear similar and will be able to have offspring by mating, it is forbidden to cross-mate them. Therefore, it is forbidden to mate a wolf and a dog, a fox and a “*kofri*” (“wild”) dog (i.e. a “hunting” dog,²⁰⁸ or in other opinions²⁰⁹ a small dog that resembles a fox), a deer and a goat, a mountain-sheep and a domestic sheep, a horse and a donkey, a horse and a mule, a donkey and a mule, or a domestic donkey and a wild donkey.²¹⁰

²⁰³ This is because it is forbidden for one to cause another to sin, even if it is not his animal; see *Torat Kohanim* (Leviticus 19:19).

²⁰⁴ *Perishah* and *Bi'ur HaGra Yoreh De'ah* ch. 297.

²⁰⁵ Rambam, *Laws of Forbidden Mixtures* ch. 9; *Shulḥan Aruḥ Yoreh De'ah* ch. 297.

²⁰⁶ Rema *Yoreh De'ah* ch. 297.

²⁰⁷ There is an argument between *Baal Halaḥot Gedolot* who says it is forbidden, and other Rabbinic authorities who do not hold this opinion.

²⁰⁸ Rambam *Pirush Hamishnah*, on Mishnah *Kilayim* 1:6.

²⁰⁹ Rabbi Ovadiah Mi'Bartenura, on Mishnah *Kilayim* 1:6.

²¹⁰ Rambam, *Laws of Forbidden Mixtures* ch. 9; *Shulḥan Aruḥ Yoreh De'ah* ch. 297.

7. When the same species has a domesticated subspecies and a wild subspecies (for example, an ox and a wild ox, or a horse and a wild horse)²¹¹ one may mate them together, because they are of the same species.²¹⁰

Some wild dogs are permitted for mating with a domestic dog, as they are the same species.²¹²

8. There is a difference of opinion as to whether domestic goats and wild goats are of the same species in this context of permission to cause them to mate.²¹³ The rule that is followed is that it is forbidden to mate them together.²¹⁴

9. A buffalo (or bison) is a wild animal that is not the same species as a domestic ox. Hence the two may not be mated.²¹⁵ Similarly, a domestic pig is a different species than a wild boar.²¹⁶

²¹¹ *Mishnah Rishona* Tractate *Kilayim* ch. 8.

²¹² Jerusalem Talmud, Tractate *Kilayim* ch. 1.

*The dingo seems to be one example of a wild dog that may be mated with a domestic dog. All breeds of domestic dogs (*Canis lupus familiaris*) are one species and may be mated. Even within the *Canis lupus* species of dogs, the Gray Wolf and Red Wolf types are considered distinct from the domestic and wild dog types, in terms of forbidden cross-mating.

In contrast, the thirty-six known species of wild cats are distinct from each other and from domestic cats (*Felis catus*), and the different species of cats should not be cross-mated. Recently, a fad has developed for expensive “designer” cats that are hybrids of domestic cats with wild cat species. If a hybrid cat of this type is produced, there are additional restrictions on what genealogies of cats it may be mated with; see topic 8:12.

²¹³ *Maggid Mishneh Hilhot Ma’ahalot Assurot* ch. 1, regarding the opinion of Rambam.

²¹⁴ See Rosh, Rashba, *Tur*, *Yoreh De’ah* ch. 80, and Meiri on Tractate *Hullin* 80.

²¹⁵ Although it appears from Tractate *Hullin* 80 that the buffalo and wild ox are of the same species, Radvaz on *Laws of Forbidden Mixtures* ch. 9, and *Tzemaḥ Tzedek* in his Novella on Talmud, Tractate *Kilayim*, rule clearly against this, based on the understanding of *Tosefta Kilayim* ch. 1, Rambam *Laws of Forbidden Foods* ch. 1, and *Shulḥan Aruḥ Yoreh De’ah* ch. 80.

²¹⁶ *Tosefta Kilayim* ch. 1.

10. Although a chicken, a peacock, and a pheasant²¹⁷ have similarities and graze together, they are considered as different species and may not be cross-mated.²¹⁸

Similarly, a domestic duck and a wild duck are different species. This is evidenced by the fact that the testicles of a domestic duck are located within his body and those of a wild duck are outside. Hence these are two different types, and they may not be cross-mated.²¹⁹

11. If one transgressed and cross-mated animals from two different species, it is permitted to consume the offspring and benefit from them in other ways, and to sustain them and raise them to maturity.²²⁰

If two crossbred offspring are born from the same types of parents (fathers of one species and mothers of another species), they are the same type of hybrid, and it is permitted to mate them together. For example, a mule is a hybrid that is born from a female horse and a male donkey, so it is permitted to mate two mules together. Likewise, a hinny is a different hybrid that is born from a female donkey and a male horse, so it is permitted to mate two hinnies together.

12. An “A-B” hybrid offspring is considered as a separate species, and it is forbidden to be mated with an animal from the species A of its father or the species B of its mother. Two “A-B” hybrids may be mated together since their mothers are of the same species, as in the examples given above in topic 11.

However, an “A-B” hybrid whose mother is from species B may not be mated with a “B-A” hybrid whose mother is of the other species A. For example, since the mother of a mule is a horse and the mother of a hinny is a donkey, a mule and a hinny may not be mated. Needless to say, neither a mule nor a hinny may be mated with a horse or a donkey.

If one wishes to mate two hybrids born from a horse and a donkey but does not know the species of their mothers, they can be checked

²¹⁷ Rashi on Tractate *Bava Kama* 55a.

²¹⁸ Tractate *Bava Kama* 55a.

²¹⁹ Rambam, *Laws of Forbidden Mixtures* ch. 9; *Shulḥan Aruḥ Yoreh De'ah* ch. 297.

²²⁰ Mishnah Tractate *Kilayim* ch. 8; Rambam and *Shulḥan Aruḥ* *ibid*.

for similarity by comparing their ears, tails, and voices.²²¹ If they closely match, their mothers are of one species, and it is allowed.

13. Similarly, the offspring of a cross-mated goat and deer (a “deer-goat”)²²² is considered as a separate species, so it may not be mated with either of its parent species. Nor may a deer-goat whose mother is a deer be mated with a deer-goat whose mother is a goat, but two deer-goats whose mothers are of the same species may be mated. If there is a doubt whether the mothers of two deer-goats are of the same species or not, those deer-goats may be mated.²²³ Similar concepts apply to a hybrid from a sheep and a goat, or from any other two species of cross-mated parents.²²⁴

14. The following principle applies when an animal gives birth to an offspring that resembles another species, e.g., an offspring of a horse that resembles a donkey, or an offspring of a donkey that resembles a horse. Even if it is possible that the mother could have conceived from a union with the species that the offspring resembles, unless one is certain that such a union took place, he does not need to be concerned with this. Rather, the questionable offspring may be considered to be

²²¹ Rambam and *Shulhan Aruh* *ibid.* (It appears that the Sages knew the identifying signs for hybrids of a horse and donkey with the same species of mothers.)

²²² We use “deer-goat” for the hybrid offspring of a deer and goat, which some Sages identified with the name *ko'i* in Hebrew. The meaning of the term *ko'i* is the subject of dispute amongst the Sages (see Tractate *Hullin* 79), as to what species it is. In this volume we follow the terminology that *ko'i* means a hybrid of a goat and a deer. There are other opinions of Sages who said that *ko'i* is the name for some other separate natural species (and not a hybrid), and according to those opinions it is obviously ruled that one may not crossbreed a *ko'i* with a goat or deer.

²²³ As noted above in topic 6:8, a doubtful case in Torah law is always ruled leniently with respect to its required observance by Gentiles. In the cases discussed here, it appears that the Sages did not know the identifying signs for deer-goat hybrids with the same species of mothers, although they did know these signs for mules (which are horse-donkey hybrids).

²²⁴ *Tosefta Kilayim* ch. 5.

of the same species as its mother, for the purpose of determining what animals are permitted to be mated with it.²²⁵

When does the above apply? When we are certain that this mother bore the offspring. However, the fact that we find a young animal that is dependent on an adult female animal, and even if this adult female is nursing the young animal, this is not in itself sufficient proof that the adult female is the biological mother of the young animal. Rather, the young animal could have been adopted by this female, which is acting as its mother. Hence, in such an instance, we may assume the species of the offspring according to its appearance.²²⁶

15. A motivating rationale for the prohibition against cross-mating animals is not to change the natural order of animal species.²²⁷ Hence, for two separate species which can crossbreed, it is also forbidden to inject sperm from one species into the womb of a female from the other species (i.e., artificial insemination),²²⁸ or to produce a hybrid species in a laboratory vessel using sperm from one species and an egg from the other species.

If one transgresses and produces an animal from this cross-insemination, it is ruled to be a hybrid. One may only breed it with a like species of hybrid, and all the other precepts regarding hybrids apply to it as well (as in topic 8:12 above).²²⁹

16. It is permitted to have one bird sit on the eggs of another bird, since this does not involve any cross-mating. The mother bird of the different species is simply warming the eggs.²³⁰

²²⁵ *Ibid.*

²²⁶ Rambam, *Laws of Forbidden Foods* ch. 1 and *Laws of [Entities] Prohibited to be Offered on the Altar* ch. 3; *Shulhan Aruh Yoreh De'ah* ch. 79.

²²⁷ Ramban on Leviticus 19:19.

²²⁸ See *Minhat Shlomo* vol. 3, ch. 98; also see the last footnote in Chapter 9.

²²⁹ *Ibid.*

²³⁰ Responsa of Rashbatz, vol. 2, ch. 58.

CHAPTER 9

The Prohibition of Grafting Different Species of Fruit Trees

1. The classic example of the type of cross-grafting that is forbidden is to graft a shoot from one type of fruit tree (e.g. an apple tree) onto another type of fruit tree (e.g. an orange tree). Similarly, it is forbidden to graft a fruit vine to a fruit tree, or a fruit tree to a fruit vine.²³¹
2. It is permitted for a Gentile to graft a shoot of a fruit tree to a tree that does not bear fruit, or a shoot from a tree that does not bear fruit to a fruit tree. Similarly, one may graft a fruit vine to a non-fruit-bearing tree, or a shoot from a non-fruit-bearing tree to a fruit vine. Cross-grafting of two fruit-vine species is not forbidden.²³² Obviously, one may graft a shoot from one tree that does not bear fruit to another such tree; this is not the type of cross-grafting which the Torah forbids.²³³
3. Even if a graft never closes entirely and the grafted species merely derives nurture from the other, as the case when a fruit vine is grafted onto a fruit tree, the grafting is forbidden.²³⁴
4. The prohibition against cross-grafting includes grafting a shoot or a branch from one species of fruit tree to the trunk or branch of another, or cutting off a fruit tree at the stump and grafting the trunk of another fruit tree onto it. (It is irrelevant which end of the shoot or branch is

²³¹ Rambam *Laws of Forbidden Mixtures* ch. 1; *Shulḥan Aruḥ Yoreh De'ah* ch. 295. **See 9:9,11-12 below for definitions of these types of plants.** A “fruit” forms with internal seeds, unless it is a modern “seedless” variety.

²³² Rambam *ibid.* *Shulḥan Aruḥ Yoreh De'ah* ch. 295 writes that this is forbidden, but that is only regarding Jews. This is a Rabbinical enactment (for the Torah does not mention the phrase “to its kind” regarding non-fruit-bearing trees), and Gentiles were not included in this Rabbinical prohibition.

²³³ Rosh, *Tur* and Rema *Yoreh De'ah* ch. 295 hold that all non-fruit-bearing trees are considered to be of one kind in this context. See topic 9:14 below.

²³⁴ This is clear from the Jerusalem Talmud Tractate *Kilayim* ch. 1, which explains the opinion of Rabbi Yehudah that such a graft is permitted since it does not completely fuse. This implies that the Sages who differ say that although it does not completely fuse, it is still forbidden.

inserted into the other tree.)²³⁵

It is also forbidden to sow a fruit vine into the trunk of a fruit tree.²³⁶

5. There is no prohibition against bringing two fruit trees of different species together, as long as one tree is not actually grafted onto the other tree by human intervention. Even if ultimately they will combine and grow together as one, the person's actions are considered merely as a secondary cause, and a Gentile is not forbidden to do this.²³⁷

6. For Gentiles, the only applicable Torah prohibitions against growing mixtures of different species of plants²³⁸ are those referring to the **grafts** listed above, which involve a species of fruit tree. It is, however, permitted to plant or sow any types of trees, vines, grains or vegetables side-by-side.²³⁹ There is no prohibition against growing the different species together side-by-side in the same field or garden.²⁴⁰

Moreover, it is permitted to plant fruit trees of different species next to each other, even if they will graft onto each other by themselves.²⁴¹ As long as a person does not do the actual grafting, there is no prohibition if an otherwise forbidden graft develops on its own.²⁴²

7. The prohibition against cross-grafting does not apply to the roots of a fruit tree or any portion of the tree that is naturally underground.²⁴³

²³⁵ *Tosefta Kilayim* ch. 1; one may not graft an olive branch onto a date tree.

²³⁶ *Mishnah Kilayim* ch. 1; *Rambam Laws of Forbidden Mixtures* ch. 2.

²³⁷ The prohibition of bringing two plants together in a way that causes them to graft together by themselves, discussed in *Tosefta Kilayim* ch. 1:7, is only a Rabbinic enactment for Jews, and is not forbidden for Gentiles.

²³⁸ *Plants grown as mixtures, whether grafted together or planted together in a mixed garden or field, are called "*kilayim*" in Hebrew.

²³⁹ *Rambam Laws of Forbidden Mixtures* ch. 1; *Shulḥan Aruḥ Yoreh De'ah* ch. 295.

²⁴⁰ Tractate *Sanhedrin* 60a.

²⁴¹ *Rashi ibid.* This is similar to putting male and female animals of different species into the same enclosure. If one does nothing actively to encourage it, there is no prohibition against allowing them to mate. (See topic 8:5.)

²⁴² See Jerusalem Talmud *Kilayim* ch. 1, as explained by Rosh and *Tur Yoreh De'ah* ch. 295.

²⁴³ Rosh, *Tur*, *Shulḥan Aruḥ Yoreh De'ah* ch. 295.

Any portion of the tree that grows above the ground is not considered a root, but as a part or extension of the trunk.²⁴⁴ Therefore, if the trunk of a fruit tree is cut off, even cut off to the ground, it is forbidden to plant or graft a fruit tree of a different species or a fruit vine on its stump.²⁴⁵

8. One of the agricultural techniques practiced in the pre-Talmudic era was to bend down and bury branches of a tree or vine, bringing them out on the other side as a new tree or vine, in an attempt to increase the nurture received by the plant from the earth. If this is done with a fruit tree, it is forbidden to graft a shoot from another species of fruit tree or from a fruit vine onto the bent-down branch, even when the graft is under the ground. Since the bent-down branch usually grows above the ground, the prohibition against grafting applies.²⁴⁶

If a fruit-tree branch is buried in this manner (including a grape vine, which is soft yet categorized as a tree; see topic 11 below), one may sow a fruit vine in the earth which covers it, even though ultimately the extending roots will graft themselves onto the buried branch.²⁴⁷

9. In topics 9:1-2, the prohibition of cross-grafting does not apply to trees that do not bear fruit which humans use. It is important to know which trees are in this category and which are not.²⁴⁸

Spice trees are not considered as fruit trees, because they do not produce fruit that serves as food.²⁴⁹

Trees and vines whose fruits are not fit for human consumption are included in the prohibition if their fruit is fit for humans to use as

²⁴⁴ Tractate *Bava Batra* 82a.

²⁴⁵ See Rabbi Ovadiah Mi'Bartenura *Kilayim* ch. 1.

²⁴⁶ The Rosh, *Tur*, and *Shulḥan Aruḥ Yoreh De'ah* ch. 295 hold that the prohibition of cross-grafting applies underground as well, as long as the graft can be considered as located on the trunk of the tree and not on the roots.

²⁴⁷ As explained above in topic 9:5, there is no prohibition for Gentiles to indirectly cause the cross-grafting of these species. Even though Rabbinical opinions forbid this for Jews (Rosh, *Tur*, and *Shulḥan Aruḥ*), this does not apply for Gentiles.

²⁴⁸ *Trees which bear nuts that humans eat are considered fruit trees. For example, some societies have processed acorns for food, so oak trees are considered to be fruit trees in regard to the prohibition of cross-grafting.

²⁴⁹ *Ḥatam Sofer Yoreh De'ah* ch. 287.

fodder for their domesticated animals.²⁵⁰

A perennial rose bush is considered as a fruit tree, because jam can be made from its flowers.²⁵¹

10. The prohibition against grafting different species of fruit trees onto each other applies even when the person's intent is not to produce fruit or to change the nature of the fruit.²⁵²

For that reason, it is forbidden to graft a branch from one fruit tree to another of a different species, even if either of the two trees is not producing fruit, either because it is old, its trunk has been cut off,²⁵³ or it is a “male” of its fruit-tree species and, therefore, it does not produce the fruit.²⁵⁴ If the two trees are still considered to be fruit-bearing species, the prohibition against cross-grafting still applies.

11. What is meant by a “fruit tree” and a “fruit vine” in the context of prohibited grafting?²⁵⁵ Any perennial plant that has a trunk, with leaves and fruit growing from branches, is considered to be a fruit tree. This applies even if its trunk withers away in the winter and a new plant grows from its surviving roots every year.²⁵⁶ Grapes, capers and

²⁵⁰ Rash Mi'Shantz on Mishnah *Kilayim* 1:4, on the meaning of “*hizrad*” (a type of wild apple that is thrown to pigs). See in *Magen Avraham* ch. 204.

*Wild tobacco may be grafted, as only wild birds and animals eat its fruit.

²⁵¹ See *Shulḥan Aruḥ Oraḥ Ḥayim* 204:11; *Magen Avraham* (*Shulḥan Aruḥ Oraḥ Ḥayim* 204:23); and *Shulḥan Aruḥ HaRav* 202:23 – one makes a blessing for “fruits of the ground” before eating it, which implies that it is a food. (See above, Part I, Chapter 6.)

²⁵² Mishnah *Kilayim* 1:7.

²⁵³ This can be learned from the case of a sycamore graft, *ibid*.

²⁵⁴ As it says “to its kind” regarding them (Genesis 1:11).

²⁵⁵ *In this context a “fruit tree” refers to a fruit-bearing *ilan* in Hebrew, and a “fruit vine” refers to a type of fruit-bearing *yerek* in Hebrew. *Ilan* and *yerek* are the generic names for a tree and a vegetable, respectively.

²⁵⁶ See *Tur* and *Shulḥan Aruḥ Oraḥ Ḥayim* ch. 203. In other contexts, a plant whose trunk withers is not considered a tree, as mentioned there. But from the Jerusalem Talmud Tractate *Kilayim* 5:7, it appears that the distinctions in topic 9:11 should be followed with regard to the fundamental definition of the categories of perennial *yerek* and *ilan*. It appears that any plant that does not have perennial roots, though it may send out shoots and fruits from its branches, is not considered a tree, according to all opinions.

cacti,²⁵⁷ berry bushes,²⁵⁸ blackberries and raspberries, and all other types of perennial bushes and “miniature trees”²⁵⁹ are considered to be trees with regard to the prohibition of cross-grafting of fruit trees.

If the roots of the plant cannot survive in the ground from year to year in a favorable environment, it is not considered to be a tree, despite the fact that its leaves and fruit grow from its branches. However, a fruit plant with a sturdy stem that merely resembles a trunk is also included in the prohibition, so a banana plant is considered like a tree in terms of forbidden grafting.²⁶⁰

12. The type of fruit vines to which the prohibition applies are non-perennials that produce leaves and fruit on a thick vine that grows from the roots (e.g. tomatoes, melons, squash and cucumbers). It certainly does not apply to grain.²⁶¹

13. There are several species of trees whose leaves or fruit resemble each other. Nevertheless, since they are distinct species, the prohibition against cross-grafting applies to them. For example, an apple and a hawthorn, a peach and an almond, and a plum and a jujube are separate species with regard to cross-grafting, even though they have some similarities.²⁶² Similarly, a citron is a different species than a lemon, and an orange is a different species than a grapefruit.²⁶³ Indeed, all of the different citrus fruit are considered as distinct species and may not be cross-grafted.

²⁵⁷ *Birkei Yosef Oraḥ Ḥayim* ch. 202 teaches that one should recite the blessing “fruit of the tree” before eating sabra fruit, so it is considered a tree.

²⁵⁸ *Tosefta Kilayim* ch. 3 and Jerusalem Talmud Tractate *Kilayim* end of ch. 5; Rambam, *Laws of Forbidden Mixtures* 5:20; *Shulḥan Aruḥ Yoreh De’ah* 296:15.

²⁵⁹ See *Tur* and *Shulḥan Aruḥ Oraḥ Ḥayim* ch. 203, regarding the blessing which is recited before eating fruit from miniature trees.

²⁶⁰ *But it is not a real perennial tree, so its fruit is blessed as “fruit of the earth.”

²⁶¹ See *Ḥatam Sofer Yoreh De’ah* ch. 287.

²⁶² *Shulḥan Aruḥ Yoreh De’ah* ch. 295.

²⁶³ Responsa of Rema ch. 117; Levush *Oraḥ Ḥayim* ch. 649; Responsa of Maharam Alshaiḥ ch. 110; *Shulḥan Aruḥ HaRav Oraḥ Ḥayim* 648:31; *Ḥatam Sofer Oraḥ Ḥayim* ch. 207. See *Ḥazon Ish (Kilayim ch. 2, 3)*.

14. Branches from different types of the same species of tree may be grafted onto each other. For example, it is permitted to graft a shoot from a white fig tree onto a dark fig tree, or from a golden apple tree onto a Macintosh apple tree. Likewise, pears have different families within the same species.²⁶⁴ The same permission applies to grafting apple trees with wild apple (crabapple) trees.²⁶⁵

Thus it is permitted to graft one fruit tree with another from the same family, even if the two fruits are different colors or sizes, or if they have different names, like two types of figs or two types of apples.²⁶⁶

15. A hybrid fruit tree is considered as a new and distinct species, and its branches may only be grafted onto a hybrid of the same type.

A hybrid fruit tree may not be grafted onto either of the two species from which it was propagated,²⁶⁷ nor may it be grafted onto a different hybrid fruit tree that was propagated from other species.²⁶⁸

16. It is forbidden to maintain a forbidden graft *before* it fuses. Therefore, if the grafted shoot has not fused to the root tree, the shoot of the different species must be removed.²⁶⁹ However, once the fusion has occurred, there is no obligation to separate the graft.²⁷⁰

This applies for grafts of one species of fruit tree to another, in which instance the grafted shoot fuses with the root tree and they become a single self-maintaining entity. If, however, a fruit vine is grafted onto a

²⁶⁴ *Shulḥan Aruḥ Yoreh De'ah* *ibid.*

²⁶⁵ *Pisḥei Teshuva Yoreh De'ah* ch. 295 in the name of *Mishkenot Yaakov* ch. 66, and *Tzemaḥ Tzedek Yoreh De'ah* ch. 221, write that domestic apples are clearly the same species as wild apples with regard to grafting.

²⁶⁶ *Shulḥan Aruḥ Yoreh De'ah* *ibid.*

²⁶⁷ This appears clear from Jerusalem Talmud Tractate *Kilayim* ch. 1:4, which specifies that a certain hybrid comes from such and such a tree, and likewise from *Tur Yoreh De'ah* ch. 295. This implies that we need to know that it may not be cross-grafted with either of the two species used to create it. See *Ma'adanei Eretz Kilayim* p. 83.

²⁶⁸ Though hybrids were not mentioned in the Torah, where it specifies each type “to its kind,” they are fruit-tree species and may not be cross-grafted.

²⁶⁹ *Shulḥan Aruḥ Yoreh De'ah* ch. 295.

²⁷⁰ *When the graft has already fused, the transgression is considered as having been committed in the past, and it is not ongoing.

fruit tree, or a fruit tree is grafted onto a fruit vine, the grafted shoot will never fuse perfectly with the root plant. Hence, it is forbidden to maintain that graft, for to do so is an ongoing transgression.²⁷¹

It is forbidden to replant a sapling onto which a forbidden cross-graft has been made, if the grafted shoot has not yet fused onto the root tree. If, however, the fusion has been completed, there is no prohibition in replanting the sapling.²⁷²

17. A hybrid fruit produced by grafting a branch from one species onto a tree of another species is permitted to be eaten, even by the person who made the forbidden graft. It is also permitted to take a branch from the forbidden graft and plant it elsewhere,²⁷³ or to plant the seeds of the hybrid fruit to grow new trees.

18. When one grafts a shoot from one species of fruit tree to the trunk of another species of fruit tree after the trunk has been uprooted, it is forbidden to replant the trunk, for that would be the planting of a forbidden graft.

19. Even if a fruit tree is growing in a pot that is not perforated, the rules of forbidden cross-grafting still apply.²⁷⁴

20. The cross-grafting of a “grafting branch,” in which the new-growth tip of a shoot from one fruit tree is inserted into a groove in the trunk of another species of fruit tree, in order to produce a branch that will bear hybrid fruit, is also forbidden.²⁷⁵

Cross-pollination of the flowers of different species of fruit trees, or injecting the hormones or sap from one fruit tree into a fruit tree of a

²⁷¹ See Responsa *Yehuda Ya'aleh* ch. 350; *Ĥatam Sofer Likutim* ch. 25; *Ma'adanei Eretz Kilayim* p. 70.

²⁷² See *Ma'adanei Eretz* p. 214, quoting the Responsa of Rabbi Avraham Yitzchak Kook and Rabbi Ĥayim Yehuda Auerbach.

²⁷³ *Shulĥan Aruĥ Yoreh De'ah* ch. 295.

²⁷⁴ Har Tzvi, *Zera'im* vol. 2, ch. 24.

²⁷⁵ *Tzitz Eliezer* vol. 1, ch. 16. (*Ma'adanei Eretz*, p. 74, argues that this type of grafting is permitted because it is only comparable to drawing out the sap of the trunk into the grafted shoot; thus the grafted shoot could not be sustained independently by itself from the ground, as would the shoot of a true species.)

different species, is permitted.²⁷⁶ This is not considered as cross-grafting one tree with another.²⁷⁷ (But seeds from the hybrid fruit will grow into hybrid fruit trees that are considered to be a distinct species.)

²⁷⁶ *There is no explicit source that indicates that genetic modification of food plants is prohibited. After the fact, once modified varieties of produce have been created, there is certainly no prohibition in using them in accordance with the guidelines of this chapter.

²⁷⁷ This can be seen from Rashi on Tractate *Pesaḥim* 56a. Although Ḥazon Ish (*Kilayim* 2:16) writes that this is comparable to cross-mating animals, one can make a possible distinction between the two cases:

The only prohibition for Gentiles regarding plants is to do an action of cross-grafting, which must include the fruit trees themselves. But cross-mating animals carries a prohibition in any case where the natural order is changed, and it includes anything that will cause a change in the species, including by artificial insemination. See also *Minḥat Shlomo* vol. 3, ch. 98.

Even though the prohibitions of cross-grafting trees and cross-mating species resemble each other in some respects, and both share the same rationale – not to change the design of nature – cross-mating of animals is more severe. The forbidden cross-grafting of trees only applies when the graft is visually observable. Therefore, the planting of two species in close proximity, so their roots will combine underground, is permitted (see topics 9:6-8). This is because the usual method of cross-grafting trees is done in a visually observable way.

However, the prohibition of cross-mating animals is more severe in the following regard. Causing the birth of a hybrid species of animal is a change in nature that may or may not result from the cross-mating. However, the action of cross-mating of two different species, even if they cannot produce an offspring, is also prohibited, because this unnatural mating is itself a change of the natural order, regardless of the outcome. So creating a new animal species, and changing the natural order of mating that God made in the world, are both prohibited, regardless of how the change is made. But for all different types of vegetation, there isn't any prohibition at all for Gentiles to sow or plant them together side-by-side, so the general attitude toward cross-grafting of vegetation is more lenient.

Furthermore, mankind was not given permission from God for unlimited control over animals (see Chapters 1 and 7 above), and cross-mating is a type of unnecessary control. In contrast, Gentiles are not forbidden to waste or cut down trees unnecessarily on a limited scale.

*Yet we see that as a practical matter, many modern governments have instituted laws to preserve the growth of trees – for example: for managed harvesting as a natural resource, for preservation in local or national parks, for beautification of towns and cities, to protect the landscape against erosion and the atmosphere against pollution, and to maintain a habitat for wildlife.

In general, concern for the environment should be rational and consistent with one of the main accomplishments that God desires of mankind: “*yishuv olam*” – efforts by each individual and group to contribute to the making of a “settled world” for the people of all nations, with societies that function properly and morally in God’s eyes, harmoniously with each other, and responsibly with the natural world and its bountiful resources.

May it be God’s will that this text will help to bring this to fruition.