

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

The Noahide Laws - Lesson Thirty Six



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Ever Min HaChai II



Introduction

Last week we saw the basis of *ever min ha-chai* and the scope of its application. This week we are going to look at more of the fundamentals of this prohibition and challenges presented by the contemporary food industry.

Amount to Trigger the Prohibition

There is no minimum amount that a Noahide must consume to incur liability for *ever min ha-chai*.¹ Even the smallest amount of *ever min ha-chai* is enough to incur punishment. However, swallowing an entire living creature is not prohibited. After all, the prohibition only applies to meat which is “from” a living creature.²

The Life of the Animal

*But flesh with its soul, its blood, you shall not eat.*³

¹ Maimonides, [Hilchos Melachim 9:10](#).

² This issue is debated in Chullin 102b. *Tosafos* rules like Rabbi Yehudah, that eating an entire living creature is not forbidden. Although Rashi disagrees, Maimonides upholds *Tosafos*. See *Hilchos Maachalos Assuros* 4:3.

³ Gen. 9:4.

Rashi and [*Targum Yonasan*](#) make an important observation on this verse: that it applies to eating flesh while the animal's soul is "in/with its blood." As the sages understand this, the prohibition of *ever min ha-chai*, to trigger punitive liability, only applies while the animal from which the flesh was taken is still living. Once the animal dies, eating the flesh that was taken from it does not incur liability. However, the sages state that meat removed from an animal while it was living remains prohibited for everyone for all time - even after the animal has died:

Flesh that becomes detached from it [while it is dying] is considered like flesh detached from a living creature and is prohibited to a Noahide even after the animal has expired.⁴

This point is very important and we will revisit it shortly.

Strict Liability

One only incurs strict liability, meaning punishable by death, if one transgresses *ever min ha-chai* by eating:

- Meat,
- From a land mammal,
- Removed from the animal while it is living,
- Eaten while the animal is still living, and
- Eaten in the normal manner.

All other possible "eatings" do not incur the death penalty, but are nonetheless forbidden. Therefore, while one is not punished for eating the flesh taken from a bird while it is still living, it is still forbidden to do so.⁵

⁴ *Chullin 121b*. Although this is the law, the Talmud's exact reasoning behind the statement is a little unclear. According to many, it is a Rabbinic decree. Of course, this interpretation raises the debate as to if, how, and to what degree rabbinic decrees apply to Noahides. Others, however, take a much stricter approach. All, however, agree that the meat remain prohibited for all even after the animal has died.

⁵ See *Hilchos Melachim 9:10* with the *Kesef HaMishnah*.

Removing the Prohibition

There is a big difference between Jewish law and Noahide law as to when the prohibition of *ever min ha-chai* ceases to apply to an animal. For Jews, the process of [shechita](#), ritual Jewish slaughter, removes the prohibition of *ever min ha-chai*. Once the majority of the trachea and esophagus of an animal has been severed according to Torah law, the prohibition of *ever min ha-chai* ceases to apply. At that point, a Jew may remove a limb or meat from the animal even if the animal is still in its death throes. That flesh would then be permitted for a Jew.⁶ However, for a Noahide, the prohibition of *ever min ha-chai* does not depart from the animal until its heart has ceased beating.⁷ This fact creates a contradiction between Jewish and Noahide law:

- If an animal is slaughtered properly, in accordance with the laws of Jewish ritual slaughter, it is considered “dead” for all intents and purposes even if it is still moving about. A Jew may then sever and consume meat from that animal even before its heart and breath have ceased.
- However, the meat severed from that animal remains forbidden for Noahide consumption as *ever min ha-chai*. This is because Noahides do not rely upon ritual slaughter to remove the prohibition of *ever min ha-chai*, rather, they rely upon the death of the animal.

If you have been paying close attention, you will note a subtle problem: this situation appears to contradict our general rule from the Talmud, that Noahide law cannot be more prohibitive in scope than Torah law.

The Talmud⁸ and many *poskim*, most notably the [Shakb](#) explain that when a Jew slaughters meat for Jewish consumption, this slaughter completely removes the prohibition of *ever min ha-chai* in its totality - even for a non-Jew! This unique rule is subject to the following conditions, though:

⁶ This is only in respect to *ever min ha-chai*. Practically, the animal remains prohibited for eating until it actually dies. See *Yoreh Deah* 27.

⁷ See *Shulchan Aruch HaRav* OC 329:3. At that point we assume that all motion and breath have stopped. If the animal has ceased moving and breathing, and has bled copiously, then we may assume that the heart has stopped.

⁸ Chullin 121b.

⁹ To *Yoreh Deah* 27.

- It must be the slaughter of a kosher species,
- It must be slaughtered by a qualified *shochet* (slaughterer) according to all of the details of kosher *shechita*,
- It must be slaughtered for Jewish consumption,
- Once the animal has been slaughtered properly, meat may be removed from it even before it has stopped moving. However, one should wait until the animal has died before actually eating the meat.

Once these conditions are met, the meat of the animal is permitted for all; Jew and Non-Jew alike. Needless to say, kosher slaughter today is carried out according to all of these requirements. Does non-kosher industrial slaughter present any problems for Noahides today?

Kosher vs. Non-Kosher Slaughter

The standard procedure in most non-kosher slaughter houses is to stun the animals (usually by electric shock) immediately prior to actually killing them. Even though this stunning may stop the animal's breath temporarily, it does not render the animal "dead enough" for the purposes of our removing the prohibition of a limb torn from a living animal.¹⁰

As for the actual methods of slaughter employed by most slaughterhouses, most of them do not bring about the immediate death of the animal (meaning complete cessation of cardiac and neuromuscular activity). Should the animal be conveyed to processing prior to the cessation of cardiac activity, a problem would arise as to the kashrus of the meat for Noahides.¹¹ This is because the animal would effectively be carved up before it has actually died and the meat rendered *ever min ha-chai*.

According to Dr. Temple Grandin, one of the world's leading experts on industrial slaughter, the interval between slaughter and processing is so long that it is rare for an animal's heart to continue beating until the time of processing. However, this generalization is not true of smaller slaughterhouses and specialty slaughterhouses such

¹⁰ See *Chasam Sofer* YD 339; *Shu"t Igros Moshe* YD II:146.

¹¹ These methods do, however, mortally wound the animal. In such cases, the meat is forbidden, yet one does not incur capital liability for having eaten it. See Radvaz to *Hilchos Melachim* 9:13 and *Sefer Sheva Mitzvos HaShem* IV:3:2, *haarab* 71.

as those that produce *halal* meats. Although the stunning and slaughter of animals is strictly regulated by USDA policy, regulations pertaining to the time between slaughter and processing are uncommon at both state and federal levels and do not apply equally to all sectors of the meat industry.

Though the chances of getting *ever min ha-chai* at the grocery store are low, the only way to ensure that your average grocery store meat is acceptable for Noahides is to know with certainty how the animal was slaughtered, and the policies of the slaughterhouse as to determining the death of the animal.

Considering that any amount of *ever min ha-chai* is prohibited for consumption, it is not unreasonable to be wary of commercially produced meat. By eating meat which has been slaughtered according to the laws of *shechita* (Jewish ritual slaughter) and relying upon the ruling mentioned above, any suspicion is removed.

Possible Leniencies

However, there are many possible leniencies for Noahides with regard to buying regular, grocery store meat. Unfortunately, these leniencies depend on whether or not certain mechanics of Torah law carry over into Noahide law. For example:

- **Safek** – Cases of doubt. The resolution of doubts as to whether or not an item is prohibited is governed strictly by many rules. Although these rules could create leniencies for Noahides with regard to non-Kosher meat, it is uncertain as to whether or not these rules apply to the Noahide legal system.¹²
- **Rov** – Nullification by majority. If a prohibited item is mixed with a majority of permitted items to the point that we cannot distinguish between the two, then the prohibited item is considered “nullified” in the majority. It unclear if

¹² This question, of *safek issur* by Noahides, is discussed at great length by the *poskim*. Unfortunately, there is no consensus on the issue. The problem depends on a number of unresolved questions. First – are Noahides obligated in Rabbinic laws? Second – Is the concept of *safek d'oraisa lechumra* (“biblical doubts are resolved stringently”) itself sourced in the Torah (like Rasbha, *Chiddushim* to *Kiddushin* 73a) or in rabbinic legislation (like Maimonides in *Avos HaTumah* 9:12). If it is a matter of Torah law, then Noahides must avoid even doubtful transgressions of the Noahide laws. However, if it is rabbinic, then everything depends on whether or not Noahides are bound by rabbinic laws. This is an extremely complicated question. See *Toldos Noach* I:18:45 for an extensive survey of the literature. Incidentally, it is possible to prove from the *mitzvah* of *dinim* (establishing courts) that Noahides are obligated in Rabbinic law. For the purpose of this course, we take the approach that Noahides are only obligated in the Rabbinic laws applying to mitzvos in Jews and Noahides have equal obligation and that have a logical application to both.

this principle applies to Noahide laws.¹³ If it does, then all mass produced meat may be considered “in a mixture” and, thus, the minority of meat coming from living animals is nullified in the majority of acceptable meat.

Though the application of these leniencies is doubtful, so too is the very presence of *ever min ha-chai* on the regular, commercial grocery market. Although each factor by itself is not enough to permit the consumption of over-the-counter grocery store meat, taken together, most contemporary authorities agree that they may be relied upon to permit the consumption of regular grocery store meat.

Practical Conclusions

Despite the uncertainties in the aforementioned leniencies, there are strong reasons to permit the Noahide consumption of regular, grocery store meat. As we said, though, there are reasons to dispute on this permissive approach.

Therefore, there is a stringent option for those who wish to adopt it. As we mentioned above, the act of Jewish ritual slaughter removes any doubt of “a limb taken from a living animal.” Although regular non-kosher meat is permitted, should a Noahide wish, he may elect to consume only meat that was slaughtered according to Jewish ritual law. By doing so, all questions of *ever min ha-chai*, a limb from a living animal, are removed. According to many, this approach is proper and strongly supported by the aforementioned authorities on Torah law. However, one who does not wish to adopt this stringent approach certainly may do so.

[CLARIFICATION FROM RABBI BLOOMENSTIEL: In the live class, this section created a lot of confusion. I have inserted the following to clarify any misunderstandings.

There are two approaches to dealing practically with the question of flesh from a living animal:

- 1) Regular, grocery store meat is 100% acceptable for Noahides. Even though there are uncertainties as to whether or not the concepts of “nullification by majority” and “doubt” apply to Noahides, there are also uncertainties as to whether or not meat from living creatures is**

¹³ As with cases of doubt, the rule of majority also depends on how we understand many of the underlying mechanics.

even present in the marketplace. Noahides may rely upon these two uncertain factors in combination to permit regular grocery store meat.

- 2) Because there are some who would question this leniency, a Noahide may voluntarily, and as a stringency only, elect to only eat meat that was slaughtered according to Jewish ritual practice.

This latter approach *does not* advocate or imply that Noahides are in any way obligated or expected to keep Kosher – the Jewish dietary laws. The *only* reason for electing to consume such meat is that, by doing so, one can be guarded from any suspicion of *ever min ha-chai*, flesh taken from a living animal, according to most authorities. Observing this elective stringency does not constitute *chiddushei dat*, creating a new religion. The reason it is not *chiddushei dat* is that one observes this stringency only in order to avoid eating *ever min ha-chai*, flesh from a living animal. One does not observe this stringency to “keep kosher” or in any way imitate Jewish practice; after all, a Noahide has no share or obligation in such laws. Furthermore, the fact that such meat, which is certain not to be *ever min ha-chai*, happens to have been slaughtered according to Jewish law is arbitrary. After all, one could achieve the same effect by electing to only eat meat that he himself has slaughtered. By doing so, he can ensure that the animal has fully died before it is carved up.

The following section, discussing eating out, is only relevant to those who wish to practice such a stringency. To iterate: while this stringency is strongly supported and proper according to many, it is not necessary and purely voluntary. Practicing it has nothing to do with “keeping kosher” because the only reason for a non-Jew to eat meat slaughtered according to Jewish ritual law is because this is one of many possible ways of avoiding the prohibition of *ever min ha-chai*.

Eating Out

If a Noahide is careful [**voluntarily strict**] to only eat ritually slaughtered meat, he will have a question when it comes to eating out. Non-kosher restaurants will have used their utensils and equipment for regular grocery store meat. Is it permitted for Noahides [**who have taken this voluntary stringency upon themselves**] to eat in such places? Does a Noahide [**who has taken this voluntary stringency upon**

himself] have to be concerned for the flavor of non-kosher [meaning possibly *ever min ha-chai*] meat that has been absorbed into the vessels?

The issue of absorptions in utensils is a major part of the Jewish dietary laws. The *poskim* disagree as to how or if it affects the Noahide laws.

- [*Chasam Sofer*](#)¹⁴ - Pots and utensils that have been certainly used for *ever min ha-chai* may never be used by non-Jews.¹⁵
- *Darchei Teshuvah*¹⁶ - The *Darchei Teshuvah* and many other *poskim* hold that there is no prohibition on Noahides using utensils that were previously and even certainly used with *ever min ha-chai*.

A Noahide who is careful to eat only meat slaughtered according to Jewish ritual practice may rely upon the *Darchei Teshuvah* and other *poskim* who permit utensils that had been used with *ever min ha-chai*. This is due to a solid *heter* (permissive ruling) from the *Darchei Teshuvah* combined with a number of other potential leniencies.

Of course, this only means that although Noahides [who have accepted such a stringency] may eat out at restaurants that serve regular meat; they may not eat any food containing actual meat at the restaurant. [Again – this is only applicable to those who have elected such a stringency. However, this stringent approach is not all required or expected.]

Eggs & Milk

Technically, eggs and milk should be included in the prohibition of *ever min ha-chai*.¹⁷ After all, they are material separated from the animal while it was living. This possibility does not create a problem for Jews, because the Torah explicitly permitted eggs and milk to them:

¹⁴ *Shu"t YD 19*, at the very end.

¹⁵ According to the *Chasam Sofer*, the *heter* of *linas laila* and *taam pagum* does not apply to Noahides.

¹⁶ 62:5.

¹⁷ Talmud *Bechoros* 6b to 7a and *Tosafos Chullin* 64a, d.h. *Sheim rikmah*.

- "...A land flowing with milk and honey..."¹⁸ The Talmud says that by praising Israel with milk, this verse is permitting milk, exempting it from the prohibition of *ever min ha-chai*.¹⁹
- The Torah states: "If you chance upon a birds nest on your way, in a tree or on the ground, with young ones or eggs, and the mother is sitting upon the young, or the eggs, you shall not take the mother with the young"²⁰ This is understood as releasing eggs from the prohibition of *ever min ha-chai*.²¹

These verses, however, were only given to Israel – they do nothing for Noahides. Are Noahides are still prohibited from eating eggs and milk?²²

Although the *Chasam Sofer*²³ suspects that certain eggs are, in fact, prohibited to Noahides, almost all other *poskim* disagree. Virtually all *poskim* permit milk for Noahides.²⁴

¹⁸ This phrase appears in many verses in the Torah.

¹⁹ See Talmud *ibid.*; Rosh 1:5.

²⁰ Deut. 22:6.

²¹ See *Bechoros* *ibid.*; *Chullin 140a*; *Tos. Chullin 64a*.

²² Practically speaking, nearly all *poskim* agree that milk and eggs are permitted for Noahide consumption. However, their reasons for permitting them are greatly varied and not at all simple.

²³ YD 19.

²⁴ Rabbi Shlomo Kluger in his *HaElef Lecha Shlomo* YD 322 brings a proof from Avraham, who served dairy to his guests.

Summary of the Lesson

1. Although the requirements to trigger punishment for transgressing *ever min ha-chai* are very narrow, the scope of the prohibition is very broad.
2. Technically, one is not liable for punishment for *ever min ha-chai* unless the animal from which the meat is taken is still living at the time the meat is consumed.
3. There are a number of potential issues with commercially produced non-Kosher meat. These issues do not exist with meat slaughtered according to Torah law. For many reasons it is advisable, according to many, for Noahides to eat meat that is slaughtered by a Jew according to the laws of Jewish ritual slaughter law. Nevertheless, regular grocery store meat is permitted for Noahide consumption.
4. Noahides who observe the stringency of eating only meat slaughtered according to kosher practice may eat out at any restaurants as long as they do not eat the meat served there.
5. Milk and eggs are permitted for Noahide consumption even though there are theoretical reasons to consider them *ever min ha-chai*.