

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

The Noahide Laws - Lesson Forty-Nine



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Introduction

Animal Issues I: Tzaar Baalei Chaim - Cruelty to Animals

Lesson

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Animals, be they insects, mammals, birds, or slugs, are man's constant companions on this planet. They were created before man, yet are clearly subservient to him, as the Torah tells us:

The fear and dread of you shall be upon every beast of the earth, every fowl of the air, and upon all that teems on the ground and all the fishes of the sea; into your hand are they delivered. Every moving thing that lives shall be for food for you; as the green herb have I given you all.¹

Despite the subservient position of animals, man's relationship to them is not without boundaries. Man cannot do to them whatever he pleases. In this and the following lesson we will explore the Torah's expectations for man's relationship with his fellow creations.

The Source for *Tzaar Baalei Chayim* – The Prohibition of Causing Pain to Living Things

The Torah prohibits causing the suffering of any living creature without valid necessity (“valid necessity” will be defined later in this lesson). Though the Talmud² states that this prohibition is biblical, there are varying traditions as to its exact source. For Noahides, making such a determination is important for knowing whether or not the law applies to them.

The *Gedolim*, great Torah scholars, have proposed a number of possible sources.

¹ Genesis 9:2-3.

² [Bava Metzia 32a to 32b.](#)

**Halacha
LeMoshe MiSinai**

[Ritva](#)³ & [Rabbeinu Peretz](#)⁴ explains the prohibition as a *Halacha le Moshe miSinai*, a precept communicated directly by God to Moses without explicit textual source in the Torah.

However, it only tells us that Jews were commanded via *Halacha le Moshe miSinai* and implies nothing about Noahides.

**Deuteronomy
25:4**

[Shita Mekubetzes](#) & [Raavad](#) offer Deuteronomy 25:4 as a source for the prohibition against cruelty to animals:

You shall not muzzle an ox while he is treading out the grain.

Muzzling an ox during threshing, thus preventing it from feeding as necessary is cruel. This verse does not come to teach only this specific prohibition, but a broader prohibition against cruelty to animals.

However, this verse was only communicated to the Jews and not to Noahides.

Exodus 23:5

According to [Rashi](#)⁵ the prohibition is from Exodus 23:5:

If you see your enemy's donkey lying under its burden would you refrain from helping him? You shall surely help along with him.

Regardless of one's relationship to the donkey's owner, Rashi holds that one must relieve the donkey of its suffering. However, this verse, as Deuteronomy 25:4 above, was never commanded to Noahides. Therefore, it does not tell us anything about Noahide obligations.

**Part of Ever Min
HaChai**

[Maimonides](#)⁶ & [Nachmanides](#)⁷ write that an underlying purpose of the prohibition of *ever min ha-chai* (flesh taken from a living animal) is to prevent causing cruelty to animals. Such an interpretation means that the prohibition of causing

³ To Bava Metzia ibid. *D.H. Teida*.

⁴ Bava Metzia ibid.

⁵ To Shabbos 128b.

⁶ [Moreh Nevuchim](#) III: 48.

⁷ To Genesis 1:28.

suffering to animals is intrinsically part of the Noahide code. Maimonides further cites the incident of Balaam and his donkey as proof of the prohibition's inclusion in the Noahide laws:

The she-donkey saw the angel of the Lord, and it crouched down under Balaam. Balaam's anger flared, and he beat the she-donkey with a stick. The Lord opened the mouth of the she-donkey, and she said to Balaam, "What have I done to you that you have struck me these three times?" Balaam said to the she-donkey, "For you have humiliated me; if I had a sword in my hand, I would kill you right now." The she-donkey said to Balaam, "Am I not your she-donkey on which you have ridden since you first started until now? Have I been accustomed to do this to you?" He said, "No." The Lord opened Balaam's eyes, and he saw the angel of the Lord standing in the road, with a sword drawn in his hand. He bowed and prostrated himself on his face. The angel of the Lord said to him, "Why have you beaten your she-donkey these three times?"⁸

Balaam, Adam & Noah

The *Sefer Chassidim*⁹ also understands the story of Balaam as referring to the prohibition of *tzaar baalei chaim*. However, the *Sefer Chassidim* offers a fascinating insight into the *mitzvah*:

A person is punished for any actions that cause suffering to his fellow. This is even if one causes needless suffering to an animal; for example, if one places upon it a burden so heavy that it [the animal] cannot walk and he then hits it. In the future, such a person will have to give an accounting for this, for causing suffering to animals is a biblical prohibition. As it is written by Balaam: "Why did you strike your donkey?" As punishments often correspond to the crime, because Balaam said "If there was a sword in my hand I would kill you right now!" he was himself killed by the sword [see Joshua 13:22]. The warning is learned from the fact that Noahides were not commanded in "dominion." Adam, who was not allowed to eat meat, was given dominion over the animals. However, Noah, who was given permission to eat meat, was not given dominion.

Elucidating the *Sefer Chassidim*

The *Sefer Chassidim* connects the prohibition against cruelty to animals to the permission given to Noah to eat meat and to the blessings given to Noah and Adam. At first glance, the *Sefer Chassidim*'s intent is a little unclear. Let us start by comparing the blessings given to Adam and to Noah:

The Blessing Given to Adam

⁸ Numbers 22:27 to 32

⁹ 666.

*And God blessed them and God said to them: “Be fruitful and multiply, replenish the earth, and subdue it; and have **dominion** over the fish of the sea, and over the fowl of the air, and over every living thing that creeps upon the earth.”¹⁰*

Compare the language of this blessing very carefully to that of the blessing given to Noah

The Blessing Given to Noah

*And God blessed Noah and his sons, and said to them: “Be fruitful and multiply, and replenish the earth. And the **fear of you and the dread of you shall be upon every beast of the earth, and upon every fowl of the air, and upon all that teems upon the ground, and upon all the fishes of the sea: into your hand are they delivered.**”¹¹*

The Midrash¹² notes a significant change in language in these two passages:

Fear and dread returned [after the flood], but not dominion.

In the blessing to Adam, God granted man dominion over all other life on earth. God’s blessing to Noah is virtually identical, except that God did not grant Noah dominion. Rather, He only instilled the fear of man upon the other creatures of the world.

In God’s original vision of creation man was given the world for domination as a king rules over his dominion. In this state, Adam’s task was to preserve the order and well-being of the world created for him. His power over the lesser creatures was intrinsic: Adam was given dominion. It appears that as a king Adam was not permitted to eat meat – doing so would be to eat his own subjects!

However, this divine vision was corrupted beyond all measure:

And God saw the earth and, behold, it was corrupted, for all flesh had corrupted its way upon the earth.¹³

Man debased himself and lost his position as a ruler. In the blessing to Noah, we see that man’s inherent “dominion” was replaced with “fear and dread.”

¹⁰ Genesis 1:28

¹¹ Genesis 9:2.

¹² *Bereshis Rabbah* 34:12.

¹³ Genesis 6:12.

As we see from the above-cited Midrash and its commentaries that before the flood man was feared because of his inherent dominion. After the flood God placed the fear-of-man upon the animals because man lost his dominion.

At this point man was, for lack of a better way of putting it, only “the top of the food chain” and not a ruler. Therefore, man could eat animals. However, unlike a ruler, man was not allowed to do with the animals as he saw fit.

Eating meat and the prohibition of causing suffering are both, therefore, signs of man’s debasement and lowered position following the flood.¹⁴

Are Noahides Prohibited from Causing Other Creatures Pain?

If the source of *tzaar baalei chaim* is *Halacha le-Moshe mi-Sinai* (a command given directly to Moses) or from Deuteronomy 25:4 or Exodus 23:5, then it is clear that the prohibition does not apply to Noahides. This is because the verses cited, as well as *halachos leMoshe miSinai*, were not commanded to Noahides. The [*Aishel Avraham \(Buczacz\)*](#)¹⁵ and the [*Pri Megadim*](#)¹⁶ hold *Bnei Noach* are not obligated in *tza'ar ba'alei chaim* based upon these sources.

According to Maimonides and the *Sefer Chassidim*, however, Noahides are biblically enjoined against causing unnecessary suffering to other living beings.

Upon closer examination it appears these sources are not mutually exclusive. Although the *Aishel Avraham* and *Pri Megadim* hold that Noahides are not obligated in *tzaar baalei chaim*, this appears to only be in regard to the Torah verses related to the commandment; after all, these verses explicitly reference the Jewish Sinaitic obligation.

Nevertheless, the *Aishel Avraham* and *Pri Megadim* would certainly agree that, independent of the Torah verses, Noahides have an obligation to not cause harm to other creatures.

Admittedly, there are a number of subtle issues inherent in Maimonides’s and the *Sefer Chassidim*’s derivations (we will discuss these issues in the live class). Regardless

¹⁴This understanding of the *Sefer Chassidim* sits well. However, it is not 100% clear this is the intended understanding of the *Sefer Chassidim*. There are other possible explanations.

¹⁵ [*Magen Avraham*](#) 13 on *Orach Chaim* 305.

¹⁶ *Mishbitzos Zahav, Orach Chaim* 468:2.

of these issues, there are many other reasons to assume Noahides are prohibited from causing suffering to animals, namely on account of it being of the *mitzvos ha-muskalos* – the logically compelled *mitzvos*.¹⁷

In Practice

Because the prohibition may be biblical in nature (as opposed to being logically compelled) it is advisable that Noahides practice the obligations according to their full exposition in Torah law. The following is a compilation of the laws of *tzaar baalei chaim*:

To Which Animals Does it Apply?

- 1) The prohibition applies to all animals and, apparently, insects as well.¹⁸

When Does the Prohibition Not Apply?

- 2) Causing pain to animals is only restricted to unnecessary pain. Man was given the right to use animals for his needs (food, clothing, etc.)¹⁹ Discomfort that is necessary as part of such uses is not prohibited.²⁰
- 3) The “need” must be genuine and tangible. For example, to force feed an animal so that its meat should look more appealing is not acceptable.²¹
- 4) Even when one is permitted to harm an animal for a valid need, he may not cause more suffering than is necessary.²²

¹⁷ For further perspectives see the *Sefer Chareidim* 14:1; *Chiddushei Chasam Sofer* to Bava Metzia 32; *Matza Chein* 54:11 to *Toldos Noach* 1:26.

¹⁸ *Igros Moshe Choshen Mishpat* II: 47. There is some disagreement in the *poskim* as to fish; see *Siach Yitzchok* 387

¹⁹ Sanhedrin 59b. See also *Taz, Yoreh Deah* 117:4.

²⁰ See also *Even HaEzer* 5:14; *Rama, Even HaEzer* 5:19; *Terumas HaDesben* 105.

²¹ *Igros Moshe Even HaEzer* IV: 92.

²² See the sources cited above.

- 5) Medical experimentation on animals for the benefit of human health is permitted.²³ In such cases, though it is praiseworthy to do so, there may not be any actual requirement to endeavor to lessen the suffering of the animals involved.²⁴
- 6) Cosmetics testing on animals are permitted according to most *poskim*. Others have expressed reservations, however. This issue will be discussed more in the live class.
- 7) Castration or sterilization of an animal for the benefit of its owner is considered a valid need and is permitted.²⁵
- 8) Similarly, declawing a cat is permitted under certain conditions.²⁶ This will be discussed in the live class.
- 9) Human financial need is also a valid waiver for the prohibition of *tzaar baalei chaim*.²⁷

Your Animal vs. That of Another

- 10) One may feed another animal to his dog or other pet. Since he owns the pet, he is responsible for its welfare. However, one should kill the food animal first as to minimize its suffering.²⁸
- 11) One may not kill an animal to feed it to another's dog or an ownerless animal.

²³ *Tzitz Eliezer*, 14:68; *Sridei Eish* YD 91.

²⁴ *Shevus Yaakov* III: 71 holds that because of the importance of medical testing for humans, the need to mitigate pain to the animal is not present.

²⁵ Shabbos 110b.

²⁶ This will be discussed more in the live lesson.

²⁷ Avodah Zarah 13b.

²⁸ *Shulchan Aruch*, *Yoreh Deah* 1:5 and commentaries there.

- 12) One has an obligation to feed and care for his own animal. Denying the animal food or care is considered cruel. However, Noahides have no obligation to provide food for other animals. It is certainly praiseworthy to alleviate the hunger of a starving animal, though.

Relieving the Suffering of an Animal and Mercy Killing

- 13) One is only prohibited from causing unnecessary suffering to an animal. One has no obligation to alleviate an animal's existing suffering.²⁹
- 14) Euthanasia of suffering animals is a much discussed topic in Torah literature. It hinges on this question: is the act itself of killing an animal considered *tzaar baalei chaim*? Some hold that the act of killing is always *tzaar balei chaim*,³⁰ while others hold that it is not.³¹ Furthermore, the act of ending the animal's life must be viewed in terms of benefit-to-the-owner vs. benefit-to-the-animal. This issue must be determined on a case by case basis.

Dangerous Animals & Pests

- 15) Animals that pester, sting, or annoy humans may be killed even if they will suffer in the process. This includes insects, dangerous dogs,³² or other pests and vermin.
- 16) Nevertheless, it is better that they be killed in a passive manner (traps, etc.) so that a person does not become accustomed to killing and taking life.³³

Labor Animals

- 17) Labor animals may be struck or prodded as minimally necessary to direct their labor. This is considered necessary for human benefit.

²⁹ Although one may claim from Exodus 23:5 that there is such an obligation, this argument has already been rejected by most *poskim*. See *Shulchan Aruch HaRav, Ovrei Derakhim* 3.

³⁰ *Shoel UMashiv Tinyana* III: 5.

³¹ *Nodah BiYehudah Tinyana* YD 10; *Yam Shel Shlomo* to Bava Kamma 10:38; *Taz, Yoreh Deah* 116:6.

³² *Taz, Yoreh Deah* 116.

³³ *Igros Moshe, Choshen Mishpat* II: 47.

Hunting

- 18) Hunting, unless an actual necessity for food or hide is considered a cruel endeavor and should not be done. The only people described as hunters in the Torah are cruel people such as Nimrod and Eisav.³⁴
- 19) Capturing animals for human benefit is certainly permitted. Zoos, therefore, pose no issue as long as the animals are properly cared for.

³⁴ *Nodab BiYeshuda* ibid.