

THE YESHIVA PIRCHEI SHOSHANIM SHULCHAN ARUCH PROJECT

# The Noahide Laws - Lesson Fifty

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## Introduction

# *Animal Issues II: Cross-Breeding Animals & Grafting Trees*

Lesson

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In the last lesson we reviewed issues pertaining to causing pain to animals. In this lesson we are going to examine *mitzvos* applying to animal cross-breeding and grafting trees.

### ***Braisa*, Sanhedrin 56b**

#### ***Braisa*, Sanhedrin 56b**

A *braisa* in tractate Sanhedrin discusses the source of the Noahide *mitzvah* to not cross-breed animals or graft different species of trees:

*The Rabbis taught in a braisa that seven commandments were given to the children of Noah: justice, not cursing the divine name, not committing idolatry, against acts of sexual immorality, against murder, against theft, and against eating a limb from a living animal.*

*Rabbi Chananya ben Gamla says: “Also against eating blood [taken from a live animal].<sup>1</sup>”*

*Rabbi Chidka says: “Also against sterilization.<sup>2</sup>”*

*Rabbi Shimon says: “Also against sorcery.” Rabbi Yossi says: “A Noahide is also warned against every act stated in the section on sorcery [Deut. 18:12]...”*

*Rabbi Eliezer says: “Noahides are also warned against Kilayim [prohibited mixtures of species]. Noahides are, however, permitted to wear [clothing made from mixtures of*

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<sup>1</sup> The Talmud later rejects this proposition.

<sup>2</sup> Most later authorities understand the Talmud as rejecting this proposition.

*wool and flax*<sup>3</sup> and to plant Kilayim [meaning to plant different plant species of vegetation in the same plot]. However, Noahides are prohibited from mating different species of animals and from grafting one species of tree onto another.

**Talmud,  
Sanhedrin 60a**

The Talmud then embarks on a lengthy, detailed examination of the Torah sources and allusions to each of the propositions brought in this *braisa*. On page 60a the Talmud turns its attention to **Rabbi Eliezer**:

*From where is this derived [that Noahides may not cross-breed animals or graft different types of trees]?*

**Shmuel** [offering an explanation of Rabbi Eliezer] says: “Because the verse states:<sup>4</sup>

**‘My decrees you shall observe[: You shall not mate your animal with another kind; you shall not plant your field with diverse species, and a garment of mixed species shall not come upon you].’**

**‘You shall not mate your animal with another kind; you shall not plant your field with diverse species...’** Just as “your animal,” prohibits mating, “your field” prohibits grafting trees.

## Sanhedrin 60a Elucidated

Let’s take a closer look at Sanhedrin 60a:

*From where is this derived [that Noahides may not cross-breed animals or graft different types of trees]?*

**Shmuel** [offering an explanation of Rabbi Eliezer] says: “Because the verse states:

**‘My decrees you shall observe [: You shall not mate your animal with another kind; you shall not plant your field with diverse species, and a garment of mixed species shall not come upon you].’**

Rashi explains **My decrees you shall observe...** is an unusual turn-of-phrase for the Torah. Normally, God issues his decrees without any introduction. So, whenever we see such a preface we must question its purpose. Here, it implies that these statutes were already known to man; God is only adjuring man to preserve

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<sup>3</sup> Compare to Leviticus 19:19 and Deut. 22:10-11 that record a Jewish prohibition against doing so.

<sup>4</sup> Lev. 19:19.

them.<sup>5</sup> Shmuel explains that these statutes are ancient Noahide prohibitions against cross-breeding species and grafting trees.

*'You shall not mate your animal with another kind; you shall not plant your field with diverse species...'* Just as “your animal,” prohibits mating, “your field” prohibits grafting trees.

Shmuel is telling us that the Hebrew expression *You shall not plant your field with diverse species...* refers specifically to grafting trees in one's orchard and not to planting multiple species of plants in a single field. Rashi and Ritva<sup>6</sup> explain that just as two animal species may not be joined by mating them, so too, two plant species may not be joined by mating/grafting them together.

What about the last part of the Lev. 19:19 prohibiting wearing “mixtures?” The *Yad Ramah* explains that the preface *My Statutes...* only comes to introduce the first two prohibitions (cross breeding animals and cross-grafting trees) and not to the third prohibition of wearing *Kilayim* (garments made of wool and linen). Therefore, Noahides may wear garments made of wool and linen, but Jews may not.

## Where were Noahides Originally Commanded in These *Mitzvos*?

According to Shmuel's interpretation of Rabbi Eliezer, the whole world was previously commanded against cross-breeding animals and cross-grafting trees. We know from Lev. 19:19's preface *My decrees you shall observe...* that such a prior mitzvah existed. Is any evidence of such a *Mitzvah* found anywhere else in the Torah?

Yes, it is! See Genesis 1:11 to 12:

*And God said, 'The earth shall sprout forth vegetation, herbage that produces seed; Edible trees that produce fruit of their own species' ... And the earth produced vegetation, herbage that produces seed of its own species and trees that bear seed-bearing fruit of their own species.*

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<sup>5</sup> The Talmud, *Sanhedrin* *ibid.* points out other instances of non-Noahide commandments being prefaced with similar language; see Lev. 18:5, for example. However, these instances do not imply earlier Noahide obligations. These passages use different word order and terminology than the verse at hand.

<sup>6</sup> To *Kiddushin* 39a.

We see here that even though all herbage produced “its own species,” only the trees were actually commanded to produce fruit identical to their own species. From here, we have learned that Adam was charged with keeping animal species separate as well. Therefore, the original Noahide laws appear to have included these prohibitions.<sup>7</sup>

## Maimonides

### Hilchos Melachim 10:6

Maimonides in [\*Hilchos Melachim 10:6\*](#) include these prohibitions as part of the Noahide Laws:

§6 *According to the Oral Tradition [meaning Halacha leMoshe miSinai], Noahides are forbidden to cross-breed animals and graft different species of trees together. However, they are not executed for violating this prohibition.*

At first glance, things appear straight-forward. However, Maimonides’s words include a subtle difficulty. He writes ***According to the Oral Tradition...***, not “According to Rabbi Eliezer or Shmuel.” This fact demonstrates that Maimonides does not hold of the Talmudic exposition of this commandment.

## Explaining Maimonides

This difficulty is troubling for a number of reasons. Why does Maimonides not hold of Rabbi Eliezer/Shmuel’s explanation of the laws? From where does he know that there is such a *Halacha* if he does not hold of their derivation?

Many, many pages have been written exploring Maimonides’s learning of these prohibitions. This is a fascinating and advanced topic beyond the scope of this lesson. In short, there are many explanations and reactions to Maimonides. Some have even argued on Maimonides, rejecting entirely the existence of any Noahide prohibitions on cross-breeding plants or animals.<sup>8</sup>

An important aspect of this difficulty is that ***Rabbi Eliezer*** is a lone opinion. If ***Rabbi Eliezer*** is learning these prohibitions as direct, biblical prohibitions, then he is *de facto* arguing for an eighth Noahide law. This position would pit him against the majority of sages who only hold of seven. Therefore, the *Halacha* cannot be like ***Rabbi Eliezer/Shmuel***.

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<sup>7</sup> *Yerushalmi*, Kilayim 1:7; See *Gra* to *Yoreh Deah* 295:2.

<sup>8</sup> *Ritva*, Kiddushin 39a D.H. *Amar Rabbi Yochanan; Shach*, *Yoreh Deah* 297:3.

On the other hand, **Rabbi Eliezer's** proposition, unlike many others in the same *braisa* (i.e. against eating blood and sterilization), is not rejected by the Talmud. It is then possible that Maimonides understands **Rabbi Eliezer/Shmuel** as offering an *asmachta*, an allusion to these prohibitions, and not an actual source for these prohibitions. Since they are not explicitly commanded in the Torah, they are not independent Noahide laws, but rather subsumed within one of the larger categories.

The question then becomes: which of the larger categories includes these prohibitions? **Rabbi Shmuel bar Chofni Gaon** appears to place these prohibitions under the header of *ever min ha-chai*. However, The **Rama** MiFanu places them under the injunction against sexual immorality.<sup>9</sup>

Despite the dissenting arguments, most *poskim* agree with Maimonides that Noahides may not cross-breed animals or graft trees. However, the uncertainties work to create leniencies in certain situations.<sup>10</sup>

## A Summary of the Laws of Cross-Breeding Animals & Grafting Different Species of Trees

### Determining Whether Two Species Are the Same or Different

- 1) Torah law differs from modern science in its methods for classifying and identifying species of plants and animals.
- 2) For example, many scientific taxonomists consider dogs, coyotes, and wolves to be of the same species. Halacha, however, does not.<sup>11</sup> Therefore, one may not breed these animals to each other.
- 3) A very general rule is that *halachic* species determination follows the names of the items rather than their biological qualities. For example, even though a dog and a wolf may be biologically similar, one is called a dog and the other a wolf. They are, therefore, considered different species.

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<sup>9</sup> These classifications of the Noahide laws were discussed in an earlier lesson.

<sup>10</sup> See [Chazon Ish](#), *Kilayim* 1:1.

<sup>11</sup> See Mishnah, *Kilayim* 1:6.

- 4) This rule of following the name is only a general guideline and certainly does not help us for determining leniencies. For example, some citrus fruits, even though they have different names, might be considered one species in *Halacha*.<sup>12</sup>
- 5) Anytime there is a doubt as to whether two animals or plants are considered the same species, a qualified rabbi should be consulted.

**The Prohibition  
Against Cross  
Breeding  
Animals**

**To What Does it Apply?**

- 6) Broadly, this prohibition applies to all animals that mate via genital/cloacal coupling.<sup>13</sup> This would include all mammals (both land and sea<sup>14</sup>), reptiles,<sup>15</sup> most amphibians, and birds.<sup>16</sup>
- 7) This prohibition also applies to mating hybrid species with a pure species. For example: one may not mate a mule with a horse. The reason is that a hybrid species is considered a new species unto itself.
- 8) One may, however, mate two of the same hybrids provided that their mothers and fathers were, respectively, of the same species. For example: a mule whose mother is a donkey and father is a horse may mate with another mule whose mother is a donkey and father is a horse. However, a mule whose mother is a donkey and father is a horse may not mate with a mule whose mother is a horse and father is a donkey.<sup>17</sup>
- 9) It appears that this prohibition applies to mating animals of differing species even when they cannot produce viable offspring.<sup>18</sup>

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<sup>12</sup> See *Chazon Ish*, Kilayim 3:7.

<sup>13</sup> In many species of insects and aquatic animals the female will deposit her eggs and the male will fertilize them later. The entire process takes place without any contact between the animals. See *Tosafos*, *Bava Kama* 55a discussing fish.

<sup>14</sup> *Tur* 297 with commentary of the *Prisha*.

<sup>15</sup> *Chullin* 127a.

<sup>16</sup> *Shulchan Aruch*, *Yoreh Deah* 297.

<sup>17</sup> *Shulchan Aruch*, *Ibid*.

<sup>18</sup> *Chasam Sofer* to *Yoreh Deah* 297.



- 10) One may not crossbreed his own animals, those of another, or those that are ownerless.<sup>19</sup>

### How Does One Transgress Cross-Breeding Animals?

- 11) In order to transgress this *mitzvah*, one must directly cause the mating to occur by either placing the animals in the mating position or using means that will likely lead to mating.<sup>20</sup>
- 12) Merely placing animals in physical proximity, even though they may actually mate with each other, is not considered direct involvement and is permitted.<sup>21</sup>
- 13) However, one should avoid placing two animals of different species in physical proximity if it is almost certain that they will try to mate. For example, one should not place a male wolf in a pen with a female dog that is in heat. One should similarly avoid placing a horse in a pen with a mule if it is likely that they will mate.<sup>22</sup>

### Artificial Insemination & Genetic Engineering

- 14) According to many *poskim*, artificial insemination of one species with the semen of another transgresses this prohibition.<sup>23</sup> An animal produced by such procedures has the status of a new, hybridized species as mentioned above.
- 15) It is questionable whether genetic engineering involving the manipulation and splicing of genes on a molecular level is included in this prohibition. This is an exceedingly complicated question that continues to evolve alongside the science that drives it.

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<sup>19</sup> *Maimonides, Hilchos Kilayim 9:1.*

<sup>20</sup> *Bir HaGra to Yoreh Deah 297.*

<sup>21</sup> *Shulchan Aruch, Yoreh Deah* *ibid.*

<sup>22</sup> *This is a dispute among the authorities. Although it seems fundamentally permitted too merely place them in the same enclosure, this should be avoided if possible.*

<sup>23</sup> *Minchas Sblomo* III: 98. The Ramban to Lev. 19:19 understands that purpose of the *mitzvah* is to keep the various species distinct.

### Hybrid Offspring

- 16) The hybrid offspring may be kept and maintained by its owner.
- 17) The animal is permitted or consumption.
- 18) All the laws of *tzaar baalei chaim* apply to this animal.

### **The Prohibition against Grafting Different Species of Trees**

#### What is Called “Tree,” “Vine,” and “Fruit?”<sup>24</sup>

- 19) Any perennial plant with a trunk (or a structure resembling a trunk) is called a “tree” for the sake of this prohibition. Therefore, Grapes, Peaches, apples, blackberries, bananas, etc. are all called trees.
- 20) This prohibition also applies to combinations of trees and fruit bearing vines. A “vine” is a plant that produces leaves and fruit yet does not possess a trunk. It doesn’t matter whether or not the vine is perennial. This would include many species we consider vegetables such as tomatoes, gourds, cucumbers, etc.
- 21) A “fruit” is anything the fruit or vine yields that may be used as sustenance for living creatures. Therefore, a tree or vine producing fruit that only animals eat (i.e. a Bois d’Arc tree) is included in this prohibition. However, trees that produce spices (cinnamon, for example) are not included.

#### To Which Combinations Does this Prohibition Apply?<sup>25</sup>

- 22) The prohibition of grafting different species only applies to the following combinations:

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<sup>24</sup> Except where otherwise noted, this section is based on *Shulchan Aruch, Orach Chaim* 202 & 203; *Chasam Sofer to Shulchan Aruch Yoreh Deah* 287; *Talmud Yerushalmi, Kilayim*; *Maimonides, Hilchos Kilayim* 5.

<sup>25</sup> Unless otherwise noted, this section is based on the *Tur* and *Shulchan Aruch, Orach Chaim* 295, and commentaries there.

- a. A fruit tree grafted to a different species of fruit tree.
  - b. A fruit tree grafted to a species of fruit bearing vine.
  - c. A fruit bearing vine grafted to a species of fruit bearing tree.
- 23) One may graft a fruit-bearing species of tree or vine to a non-fruit-bearing species of tree or vine. One may also graft two different species of fruit-bearing vines to one another.<sup>26</sup>
- 24) The prohibition of grafting only applies to the parts of the plants or vines that are above ground. It does not apply to roots.

### **If One Grafts a Tree or Discovers a Grafted Tree on His Property**

- 25) When one buys property, he should examine the fruit trees and vines therein to ensure that none of them are grafted. Many species of trees are commonly grafted even when still in the nursery. For example, peach trees are almost always grafted onto almond stalks. Nectarines are commonly grafted onto peach or plum stalks. We will talk about the practicalities of this in the live class.
- 26) If one finds a grafted tree or vine on his property, its law depends on whether or not the graft has yet fused. If the graft has fused, then one may keep the tree. However, the tree should not be watered, pruned, or maintained for its own benefit (we will discuss this more in the live lesson). Doing so is considered as contributing to the grafting process.
- 27) If the graft has not yet fused, then the graft must be taken apart even if this will cause the death of the plant.<sup>27</sup>
- 28) Before the graft has fused it is also prohibited to uproot and replant the tree elsewhere. Once the graft has fused, the tree may be replanted.

### **The Fruit & Branches of a Hybrid Tree**

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<sup>26</sup> *This is permitted for Noahides, but not for Jews.*

<sup>27</sup> *Shulchan Aruch, Yoreh Deah 295. The Sefer Sheva Mitzvos HaShem applies this ruling to Noahides. However, it is possible that Noahides may have leniencies not afforded to Jews in such a situation.*

- 29) The fruit of a grafted tree or vine/tree combination may be eaten.<sup>28</sup>
- 30) The branches of a hybrid tree may be cut and replanted. They are not themselves considered grafted entities. Rather, they are only the hybrid produce of such a graft.
- 31) A branch from a grafted tree is, like a hybrid animal, considered a new species and may not be grafted to either of its parent species. It may, however, be grafted to another identical hybrid.

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<sup>28</sup> *Maimonides, Kilayim 1:7 and Shulchan Aruch, Yoreh Deah ibid.*