

Section 15

Shechita

In order for meat to be permissible for consumption, it must be slaughtered according to a process known as *shechita*. *Shechita* accomplishes two primary purposes: First, it drains an animal of most of its blood. Removing blood from meat is necessary because the Torah forbids the consumption of blood (Leviticus 3:17). Second, *shechita* offers a rapid mode of death that minimizes the pain felt by the slaughtered animal. *Shechita* thereby demonstrates a concern for compassion, a central teaching of the Torah.

Shechita is not the only *halakhic* consideration relevant to the preparation of meat. Prohibitions on acts such as “[boiling] a kid in its mother’s milk” likewise affect how we may consume meat. Furthermore, no understanding of Karaite dietary laws can be complete without an understanding of the laws of *tumah* (ritual impurity), which, God willing, we will discuss in the section after this one. Finally, food prepared in violation of prohibitions such as the prohibition on *kilayim* or the prohibition on cooking Shabbat may also affect the permissibility of foods prepared.

Before beginning this section, the reader should note that we do not intend the content herein as a do-it-yourself guide for *shechita* or the post-shechita steps necessary to prepare kosher meat. One should rely on a trained Karaite *shochet* for preparation of meat¹.

The topics covered in this section are:

1. The Method of *Shechita*
2. The Origin of *Shechita*
3. The *Shochet*
4. The Knife Used in *Shechita*
5. Permitted Locations for *Shechita*
6. The Prohibition on Blood
7. The Prohibition on Fat
8. The *Gid Hanashe*
9. Permitted Species
10. Animal Derivatives
11. Do not Kill a mother and its young on the same day
12. Do Not Boil a Kid in Its Mother’s Milk
13. Melikah
14. Forbidden Fruit

“Because the virtue of compassion is one of the foundations of the Torah and a pathway that leads to rationale mitzvot, our sages concluded that the slaughtering of living things should be done in a compassionate way, lest [the slaughtered animals] suffer greatly” -Adderet Eliyahu’s Introduction to Inyan Shechita, Daf 101B Col 1

¹ In fact, whenever an uncertainty arises regarding the practical implementation of a *mitzvah* I strongly recommend consulting an expert in the field.

§15.1 *Shechita*

§15.1a *Defining Shechita*

Shechita is the act of cutting four points along an animal's neck: the jugular vein, the carotid artery, the esophagus, and the windpipe. Completely severing these four points accomplishes the two main purposes of *shechita*: 1) a swift, relatively painless death for the animal and 2) rapid draining of most of the animal's blood before it can clot. Note that there is a jugular vein and carotid artery on either side of the neck, and these must be cut on both sides of the neck to accomplish proper *shechita*.

Aside from the requirement to cut these four points, proper *shechita* must meet many other criteria. For example, the *shochet* (ritual slaughterer) must slice the animal's neck by performing a back and forth motion with his knife. He may not puncture the animal's neck by applying downward pressure with his blade. Puncturing the neck in this fashion would cause the animal undue pain. Also to prevent pain, the *shochet* may not move his knife back and forth too many times across the animal's neck. It should take the *shochet* no more than three slices to properly cut the four required points. Adderet Eliyahu discusses many more prerequisites to proper *shechita*; some of which we omit from *Mikdash Me'at* for the sake of brevity².

§15.1b *Rabbanite Shechita*

The Rabbanites require cutting the same four points along an animal's neck as do the Karaites. Nevertheless, Rabbanite *Shechita* is more lenient than Karaite *Shechita* in several respects. For example, should a *shochet* fail to properly sever the jugular vein when slicing the neck Rabbanite *shechita* permits puncturing it instead. By contrast, Karaite *shechita* requires that all four signs be properly sliced thereby maximizing an animal's blood flow and speed of death. The Rabbanites also permit cutting the animal within a larger region of the neck than do the Karaites. The more stringent regulation used by the Karaite *shochatim* reduces the animals pain and maximize its blood flow. The details of Karaite and Rabbanite *shechita* differ in many other respects. Some of these we omit from *Mikdash Me'at* for the sake of brevity.

§15.2 *The Origin of Shechita*

When man was given dominion over the animals -“let him rule over the fish of the sea, and the birds of the sky, and the animals of the field” (Genesis 1:28) - he was given permission to eat meat. In Noah's generation, God continued to allow man to eat meat, but commanded him not to consume an animal's blood: “only the flesh with its life, its blood, you shall not eat” (Genesis 9:4). *Shechita* was first used in Noah's time, because *shechita* allowed Noah to remove an animal's blood from its flesh. Generations later, Moshe would uphold both the permission to eat meat and the requirement to use *shechita* to remove the animals blood: “whenever your soul desires you will slaughter and eat meat...only you shall not eat the blood, you shall pour it out on the earth like water” (Deuteronomy 12:16). Nowhere does

² This is consistent with my introductory note explaining that this section is not intended to serve as a complete explanation of Karaite slaughter.

Moshe explain the details of how *shechita* is to be performed. It need not do so because these details were already well known and *shechita* commonly practiced since the time of Noah. Indeed, when Abraham was told to sacrifice Isaac, the Torah mentions that Abraham intended to use shechita to kill the boy: “he [Abraham] took the knife to slaughter (*lishchot*) his son” (Genesis 22:10). Because *shechita* found common use since the time of Noah, the concept of *shechita* had already become embedded in the Hebrew language by the time the Torah was given. The words “*shechita*” and “*zevicha*” both refer to the act of slaughtering by cutting the four points along an animal’s neck. This is just as “*nechira*” refers to stabbing an animal’s neck and “*kitzutz*” refers to severing any one of an animal’s organ. Thus the concept of *shechita* is known today through oral transmission of information. In the parlance of the sages, the oral transmission of halakhic knowledge is known as *sevel hayerusha* (“Notes on §1.6”).

The Rabbanites offer a different explanation for why the laws of shechita are not given in the Torah. Unlike the Karaites, the Rabbanites believed that *shechita* was an innovation instituted at Sinai - not a practice implemented since the time of Noah. The Rabbanites viewed the written Torah’s silence regarding the details of *shechita* as evidence for the existence of the Rabbinic Oral Torah, which they believe was also given at Sinai. In support of their position, the Rabbanite sages pointed to the verse: “you will slaughter from your cattle and your flock ... as I have commanded you” (Deuteronomy 12:21). Because God never commanded how to properly slaughter in the written Torah, the Rabbanites argued that this verse must be referencing a command given in the Oral Torah. Rav Bashyatzi, however, argues that the phrase “as I have commanded you” refers to a command given a few verses prior in the passage: “only whenever your soul desires you shall slaughter and eat meat” (Deuteronomy 12:15). In Rav Bashyatzi’s view, the clause “only whenever your soul desires” found in the prior verse is a command to restrict one’s slaughtering only to those times when one desires meat.

Notes on §15.2:

Rav Bashyatzi believes that the verse “you will slaughter...as I have commanded you” refers to the command to eat meat “only whenever your soul desires” (Deuteronomy 12:15). In other words, he sees this verse is a prohibition on slaughtering meat should one *not* desire to eat meat. At first glance this reasoning appears strange. Do not people already slaughter only if they desire meat?

A possible answer is that the command to eat meat only when hungry reinforces the prohibition on offering sacrifices outside the Temple. Specifically, the clause “only whenever your soul desires” dictates that meat can only be slaughtered outside the Temple for the secular purpose of satisfying hunger; not for the purpose of accomplishing a religious sacrifice. Prior to hearing this command, the Israelites would have viewed the slaughter of meat as being intertwined with the institution of animal sacrifice. This is because the Israelites travelling in the desert had been required to slaughter any meat they ate³ as an offering to Hashem (Leviticus 17:3-4). Only later, when the Israelites settled the land, were they permitted to slaughter meat even when far away from the sanctuary: “should the place where God will choose to put his name be too far from you, you will slaughter from your cattle and your flock...as I have commanded you” (Deuteronomy 17:21). It is in this historical context that the Torah makes clear that slaughter outside the Temple serves only to satisfy our hunger, not to accomplish a ritual sacrifice: “only whenever your soul desires you shall slaughter and eat meat” (Deuteronomy 12:15). The

³ With the exception of bird meat of birds or meat from animals not usually domesticated (Leviticus 17:13)

understanding that this clause is meant to secularize all meat eaten outside Jerusalem is consistent with the general context of the biblical passage, which explicitly prohibits non-secular meat outside Jerusalem:

*“Guard yourself lest you offer burnt offerings in any place that you see, for only in the place that Hashem will choose in one of your tribes, there you shall offer your burnt offerings and there you shall do all that I have commanded. **Only whenever your soul desires** you will slaughter and eat meat, according to the blessing of Hashem your God which he has given you, [you will eat meat] in all your gates” (Deuteronomy 12:14-15).*

Alternatively, Rav Bashyatzi may be mistaken in reading the clause “only whenever your soul desires” as a prohibition. Instead of being read as “only whenever your soul desires”, the text of the verse can also be read as “however, whenever your soul desires”. In other words, this verse may simply be a permission to eat meat outside the sanctuary that does not impose any additional requirements. This reading raises a question, however. If this verse is not establishing a *mitzvah*, how then can we explain the verse “you will slaughter as I have commanded you”? One possibility is that the clause “as I have commanded you” references details of shechita commanded to Noah but not explicitly recorded in Scripture. Alternatively, the clause may allude to a requirement given earlier in the passage to “pour [the blood] onto the earth like water” whenever slaughtering an animal (Deuteronomy 12:16). Finally, the verse may be referring to other criteria for Kosher slaughter aside from the physical slicing motions comprising *shechita*. For example, the Torah prohibits slaughtering an animal younger than eight days old (Leviticus 22:27). It also prohibits slaughtering a mother and its young on the same day (Leviticus 22:28). These criteria are explicitly commanded by the written Torah and so, under this explanation, the phrase “as I commanded you” does not imply the existence of an Oral Torah.

§15.3 The *Shochet*

One who performs *shechita* is called a *shochet*. Although it is clear that a man may become a *shochet*, the sages disagreed as to whether a woman may slaughter meat. Some sages argued that a woman may slaughter meat because King Saul ate meat slaughtered by a woman: “and the woman had a fatted calf in the house and she made haste and slaughtered it” (1 Samuel 28:24). In response to this argument, other sages argued that the woman in question might not have literally slaughtered the calf. It is possible she commanded a man to slaughter the calf for her. This is just as Scripture states that “Joseph made ready his chariot” (Genesis 46:29), even though his servants would have been the ones to physically prepare his chariot.

The sages who held that only men should slaughter also argued that the Torah presupposes that a man would be performing *shechita*: “any man from the house of Israel that slaughters an ox, or lamb, or goat...” (Leviticus 17:3). They thus concluded that a man should perform *shechita* whenever possible. A woman may perform *shechita* only in the absence of an eligible man.

Aside from the *shochet*'s gender, the sages discussed several other important criteria of the *shochet*. In general, they agreed that a *shochet* should have the following qualifications:

1. He should be sane and in his right mind when performing *shechita*. For example, he may not be drunk.
2. He should be capable of recognizing the four spots on the animal's neck that must be cut. He should also be dexterous enough to cut them.
3. He should believe in the Karaite principles of faith (§10.1).

4. He should understand that a major purpose of *shechita* is to reduce an animal's pain. This is to ensure that he will be as gentle as possible towards the animals he slaughters.
5. He should observe the mitzvot and not make light of them. One who takes the mitzvot lightly is likely to be careless in observing the requirements of *shechita*.

Notes on §15.3:

The only scriptural evidence in support of the position that women may not slaughter is the verse: "any *man* (*ish*) from the house of Israel that slaughters an ox, or lamb, or goat ..." (Leviticus 17:3). Consistent with the position that women may not slaughter, the term *ish*, meaning man, is sometimes contrasted with the term *isha*, meaning woman: "When man (*ish*) or woman (*isha*) shall clearly utter a vow..." (Numbers 6:2). However, *Ish* may also be used as a gender neutral term. Rav Nisi ben Noach explains that the Torah states that dedications for the Mishkan were brought "from every *ish*" (Exodus 25:2) but later states that "both men and women" (Exodus 35:22) came to offer gifts to the Mishkan. Thus, he concludes that the term *ish* can encompass both men and women. Even Rav Bashiya, who held that only men should slaughter, recognized that *ish* may sometimes refer to both men and women:

*"It is the general custom of Scripture to speak in the masculine but include [in its statements] both the masculine and the feminine. For example, 'no man (ish) shall approach his close relations [to uncover their nakedness]' (Leviticus 18:6)"*⁴

Were there a compelling rationale to differentiate between men and women for the purposes of *shechita*, I would be open to the possibility that "ish" in the context of the verse "any man (*ish*) who slaughters" is used in the gendered sense. Lacking any empirical evidence demonstrating that men and women are different in their capacity to perform *shechita*, however, it seems to me that the term *ish* should be read according to the "general custom of scripture": to speak in the masculine but to include the feminine in its intent.

§15.4 The Knife Used in *Shechita*

A special knife, known as a *ma'achelet*, is to be used in *Shechita*. The Torah itself references the *ma'achelet* in the context of *shechita*: "he [Abraham] took the knife (*ma'achelet*) to slaughter (*lishchot*) his son" (Genesis 22:10). The Torah uses other words to refer to knives not used in *shechita*. For example, the word "cherev" refers to a sword used for stabbing⁵.

The *ma'achelet* should meet certain specifications. First, it should be used exclusively for *shechita* so that it remains sharp. Second, it must be made of metal. Other materials, such as glass or clay do not cut as effectively. Third, it must be very sharp so as to cause the animal the least amount of pain. *Adderet Eliyahu* describes several other criteria of the *ma'achelet* which we do not address herein.

§15.5 *Shechita* in the Exile

The Torah prohibited the wandering Israelites from eating meat anywhere outside the *mishkan*:

⁴ Adderet Eliyahu Inyan Shechita Ch 8 Daf 63b Col 2

⁵ Another type of knife mentioned in Scripture is the *sakin* (Proverbs 23:2).. Furthermore, the term *ma'achelet*, is related to the word "ochel" meaning food. This suggests that the *ma'achelet* was generally used to prepare food, presumably meat.

“Anyone from the house of Israel that slaughters an ox or lamb or goat in the camp or that kills it outside the camp and does not bring it to the entrance of the tent of meeting to bring it as an offering to Hashem before the mishkan of Hashem...he shall be cut off from among his people”
(Leviticus 17:3-4)

When the Israelites entered the land, however, God permitted them to slaughter meat outside the Mishkan:

“When Hashem your God enlarges your border as He has promised you ... if the place which Hashem your God shall choose to put His name (ie: the location of the sanctuary) is too far from you then you shall kill of the herd and of the flock which Hashem has given you as I have commanded you and you shall eat within your gates” (Deuteronomy 12:21)

Based on these passages, the sages debated as to whether it is permitted to slaughter meat in the exile. In general, the earlier sages held eating meat in the exile to be forbidden. They argued that the permission to “eat within your gates” allows one to eat meat only within the land of Israel. Furthermore, they believed that the Torah’s use of the possessive phrase “your gates” implied that one could only eat in the land of Israel when it was under Jewish control.

By contrast, the latter sages held that it is generally permissible to eat meat in the exile. They believed that once the Israelites settled the land, the practice of eating meat in all locations reverted to what it had been since Noah’s time. Namely, all were allowed to slaughter whether inside or outside Israel. They further argued that within the context of the prohibition to eat meat the phrase “your gates” should be read to include any Israelite settlement, whether in Israel or in the exile. This is because the prohibition on blood and *chelev* clearly applies in all settlements and all epochs: “it shall be a perpetual statute for you **in all your generations in all your dwellings**, you shall eat neither any *chelev* nor any blood” (Leviticus 3:17). Because the prohibitions on blood and *chelev* are only relevant where slaughtering is permitted, these sages concluded that slaughtering is permissible even in the exile.

Nevertheless, even those sages permitting the consumption of meat in the exile held that it is forbidden to eat meat in Jerusalem. This is because the Torah’s permission to eat meat outside the Temple is conditional on great distance from Jerusalem (“if the place which Hashem your God shall choose to put His name too far from you ... you shall eat [meat] within your gates”). Although the Temple has been destroyed, Jerusalem has retained its status as “the place which Hashem your God shall choose”. Accordingly we see that Daniel prayed three times a day in the direction of Jerusalem, even though the first Temple had already been destroyed and the second Temple had yet to be built (Daniel 6:11). Thus, we are restricted to slaughtering sacrificial meat while in Jerusalem. However, because the Temple no longer stands, we are currently forbidden from slaughtering any meat in Jerusalem. It is permissible, however, to eat the meat of birds and animals not normally domesticated (eg: deer) in Jerusalem because these species were always permitted to be eaten outside the sanctuary, even when the Israelites had been wandering in the desert (Leviticus 17:13).

§15.6 The Prohibition on Blood

The Torah prohibits consuming blood: “you shall not eat the blood of any flesh” (Leviticus 17:14). In both land animals and birds, the process of removing blood begins with *shechita*. *Shechita* cuts open the jugular vein and carotid artery, allowing the *shochet* to rapidly empty most of the animal’s blood from its body. The *shochet* is required to pour the animal’s blood onto the ground and cover it in dirt (Leviticus 17:13, Deuteronomy 12:15-16). This is to prevent him from engaging in any strange rituals with the blood. He may not pour it in water, or on stone, or collect it in a container.

After *Shechita*, the meat must be further processed so as to remove the remaining blood. The additional removal of blood is primarily accomplished by piercing, salting, and rinsing the meat. While *Adderet Eliyahu* elaborates on how to best remove blood from meat, we do not discuss these details herein.

The prohibition on blood applies not only to the blood of land animals and fowl, but also to fish and insect blood. This is because the Torah prohibits consuming the blood of “any flesh (*basar*)” (Leviticus 17:14). The term “flesh” refers to the flesh of any animal including fish and insects. When the Israelites complain that they have no “flesh” to eat, God responds by telling Moshe that he will provide them flesh. Moshe, incredulous that God could provide sufficient flesh for the entire Israelite nation, exclaims: “You have said I will give them flesh that they may eat a whole month! If flocks and herds be slain for them will it suffice for them? Or if all the fish of the sea be gathered for them will it suffice for them?” (Numbers 11:22). The fact that Moshe mentions fish when discussing having flesh to eat demonstrates that fish is considered flesh (*basar*).

The prohibition on blood applies to all sources of blood, not just blood found in meat. Thus, it is forbidden to consume blood spots in eggs.

Notes on §15.6:

While *Adderet Eliyahu* prohibits fish and insect blood, it prescribes methods other than *shechita* for these animals (§15.9). These alternative methods (fishing in the case of fish, and drowning in the case of insects), do not serve to remove blood from the meat. *Gan Eden*, however, explains that salting will suffice to remove blood from fish and insect meat⁶.

§15.7 The Prohibition on Fats

§15.7a Definition of *Chalavim*

The Torah prohibits consuming choice parts of meat, known as “*chalavim*”. Whenever a Temple sacrifice was performed, some parts of the sacrifice were eaten by the priests or the people bringing the sacrifice, while other parts were turned into smoke on the altar. The precise parts that were eaten varied according to the type of sacrifice. Regardless of the type of sacrifice, however, the blood and the *chalavim* (choice parts of the sacrifice) were never eaten. Instead, the *chalavim* were reserved for God: “all *chelev* is Hashem’s” (Leviticus 3:16). Thus, the *chalavim* would be turned to smoke on the altar

⁶ Gan Eden Inyan Shechita Ch. 18 Daf 93B Col 1

whenever meat was offered as a sacrifice (eg: Leviticus 3:14-15). When meat is slaughtered outside the Temple, however, the *chalavim* need not be turned to smoke but are still prohibited for consumption: “In all your settlements you shall eat neither blood nor *chelev*” (Leviticus 3:16). .

The word *chelev* (plural: *chalavim*) is both a standard term and a torah term. As a standard term, *chelev* can mean either “fat” or anything which is highly regarded, as in the verse “you shall eat from the best (*chelev*) of the land” (Genesis 45:18). As a Torah term, *chelev* refers to the “choice parts” of a slaughtered animal that were never consumed. Scripture precisely defines 6 parts of slaughtered animals as *chelev*. Five of these are mentioned in the context of the prohibition on fat:

*“and he shall present [from the goat] an offering made by fire to Hashem. (1) The fat that covers the entrails, (2) the fat that is on the entrails, (3) the two kidneys, (4) the fat that is on them near the loins, and (5) the protuberance of the liver...the priest shall make these into smoke on the altar, food of the offering made by fire as a pleasing odor; **all chelev is for hashem**”* (Leviticus 3:14-16).

Recall that *chelev*, as a standard term, can simply mean “fat”. One might therefore argue that when the Torah states that “all *chelev* is for Hashem” it does not intend to include the entire list of body parts given above, only those organs that are directly referred to as “fat” (eg: “the fat (*chelev*) that is on the entrails”). This reading is mistaken, however. Elsewhere Scripture thrice refers to the kidneys and the protruberance of the liver as “*chalavim*”:

*“the **chalavim** from the ox and from the ram: the aliyah, the fat covering the entrails, the kidneys, and the protuberance of the liver; they put the **chalavim** upon the breasts and made the **chalavim** smoke on the altar ”* (Leviticus 9:19).

The above verse mentions another *chelev* that we have not previously discussed: the fat tail (*alyah*). The *alyah* is also stated to be *chelev* in another verse: “he shall offer from the *shelamim* offering the entire fat tail (“**chelbo** haaliyah”)” (Leviticus 3:9). Recall, however, that the fat tail is excluded from the list of *chalavim* discussed in Leviticus 3:14-16 which introduces the general prohibition on *chalavim* (Leviticus 3:16). This is because that list is brought up in the context of a goat offering being burned on the altar (Leviticus 3:12). Fat tails are not found in goats, they are only found in sheep and rams. Nevertheless, it is clear that the *alyah* is prohibited because the prohibition on consuming *chalavim* is repeated outside the context of the goat offering: “you shall eat no *chelev* of fat, of ox, or sheep , or goat” (Leviticus 7:23).

§15.7b Does the Prohibition on Chalavim Apply to All Species?

The prohibition on *chalavim* does not apply to fowl or species not usually domesticated (eg: deer). It applies only to non-fowl species that were offered as burnt offerings in the Temple: “you shall eat no

chelev of ox, of sheep, or goat ... whoever eats *chelev* of the beast⁷, from which an offering may be made by fire to Hashem, that soul that eats [the *chelev*] will be cut off from its people” (Leviticus 7:25). While one may read this verse as we have above (“whoever eats *chelev* of the beast, from which an offering **may be** made by fire”), it is also possible to read it as “whoever eats fat of the beast, from which an offering **is** made by fire”. The first reading prohibits the fat of any species that could be sacrificed, while the second implies that only the *chelev* from the individual animal that has actually been sacrificed is prohibited. This latter reading quickly reveals itself to be untenable in the larger context of the laws of “*chalavim*”, however. Recall that The Torah prohibits *chelev* from animals slaughtered outside the Temple: “you shall eat neither fat nor blood in **all your settlements**” (Leviticus 3:16). Prohibiting only *chelev* from those individual animals that are actually sacrificed in the temple would render the prohibition of *chelev* outside the Temple meaningless. Thus, when the Torah forbids *chelev* from any livestock “from which an offering may be made by fire to Hashem” it intends to disallow *chelev* from any member of that species, not just the *chelev* of sacrifices themselves.

§15.8 *Gid Hanashe*

§15.8 Avoiding the *Gid Hanashe*: Mitzvah or Practice?

The sciatic nerve (*gid hanashe*) runs along an animal’s thigh. Jews traditionally refrain from eating the *gid hanashe* because Jacob’s thigh was struck when he wrestled an angel:

“And [the angel] touched the hollow of Jacob’s thigh and the hollow of Jacob’s thigh was strained....and [Jacob] limped upon his thigh. Therefore the children of Israel do not eat the sciatic nerve (gid hanashe) that is in the hollow of the thigh until this day; because he struck the hollow of Jacob’s thigh in the sciatic nerve (gid hanashe)” (Genesis 32:26-33).

The phrase “the children of Israel do not eat the *gid hanashe*” may also be read in the imperative as “shall not eat the *gid hanashe*”⁸. Given this ambiguity, the sages disagreed as to whether the above verses describe a command given at Sinai or a tradition observed since the time of Jacob.

Rav Bashyatzi contends that the *gid hanashe* verses describe a command given at Sinai. Were this command instituted in Jacob’s time it would have had to be transmitted through oral tradition during the time that the Israelites were slaves in Egypt. This is impossible, Rav Bashyatzi contends, because the Israelites ceased practicing many of the customs unique to them when they were slaves in Egypt⁹. The prohibition on *gid hanashe* would thus have been lost before Moses’ time.

⁷ The term “beast” (“behema”) generally refers only to livestock to the exclusion of fish, wild-animals, insects, and birds.

⁸ See the prohibitions in Deuteronomy 23:3 and Leviticus 22:10, which are conjugated in the same tense as the verse describing the *gid hanashe*.

⁹ Rav Bashyatzi himself held that many other laws, such as the details of setting the month or of *shechita*, were passed down through oral tradition since before the Exodus (“Notes on §1.6”). These practices were not uniquely Jewish, however, and were thus not at risk of being lost. *Gid hanashe*, by contrast, is a uniquely Israelite practice.

Problematically for Rav Bashyatzi's position, however, the Torah states that the children of Israel do not eat the sciatic nerve...**until this day**". If the phrase "until this day" refers to the time when the Torah was written, then the practice of removing the sciatic nerve must have predated Moses. That is, it could not be a command instituted at Sinai. Rav Bashyatzi, however, adopts a different reading of the phrase "until this day". He argues that "until this day" can mean "for all eternity", as in the verse describing the twelve stones Joshua set up in the Jordan River: "they remained there *ad hayom haze*" (Joshua 4:9).

Notes on §15.8:

Rav Bashyatzi was not the only sage to hold that the prohibition on *gid hanashe* was given at Sinai. Neither was he the only sage to hold that "*ad hayom haze*" can mean "for all eternity". Some of his predecessors held this view¹⁰. I do not understand, however, why these sages assume that the term "*ad hayom haze*" in the context of the 12 stones Joshua erected (§15.8) must necessarily mean "for all eternity". It seems that the verses in Joshua could just as easily mean that the stones remained in the Jordan "until this day", that is until the time the book of Joshua was written. Furthermore, "until this day" is the simplest, most direct translation of the phrase "*ad hayom haze*". Therefore, the reading of the phrase "*ad hayom haze*" as "for all eternity" both with regards to the 12 stones and the verses regarding *gid hanashe* appears to me to be unlikely ones.

Another possibility is that "*ad hayom haze*" means "from this day onwards". *Gan Eden* cites Jonah's words to God in support of this position¹¹. Jonah asks God "was this not what I had been saying from (*ad*) when I was in my land? Therefore I fled towards Tarshish". Because Jonah's flight to Tarshish follows his stay in the land of Israel, it is clear that the preposition *ad* must here mean "from" and not "until" (its most common meaning). If "ad" is also read as "from" in the verse describing the *gid hanashe*, then the *gid hanashe* passage could be establishing a command. Under such a reading the Torah suggests that the practice of *gid hanashe* will be eternal: "therefore the children of Israel shall not eat the *gid hanashe* that is in the hollow of the thigh from this day forth (*ad hayom haze*)".

Another possibility is that "*ad hayom haze*" is meant to be read according to its simplest, most common reading: "until this very day". *Gan Eden* adopts this view and concludes, therefore, that there is no halakhic requirement to remove an animal's *gid hanashe*. Rather than reading the verse as a command, Rav Aharon holds that "it is better [to read the verses regarding *gid hanashe*] as narrative [stating] that the children of Israel took this [practice] upon themselves in remembrance of the trial that Jacob our father, peace be upon him, underwent"¹². Rav Aharon notes, however, that because of the debate regarding whether the practice of *gid hanashe* is a halakhic requirement, the sages held that one should refrain from eating the *gid hanashe*:

"it is possible that [this verse] is either [simple] narrative or an [actual] command, therefore our sages peace be upon them have obligated us³ to be cautious about this matter even though the meaning of 'ad hayom haze' is a reference to [the time] up until that one [ie: the time up until the time Moses wrote the Torah]"¹⁴

I agree with Rav Aharon's reading of the *gid hanashe* passage because it assumes the simplest, most straightforward meaning of "*ad hayom haze*". Importantly, however, Rav Aharon does not actually suggest

¹⁰ Gan Eden Inyan Shechita Ch. 16 P. 92B Col II, and Sefer Hamivhar on Genesis 32:32.

¹¹ Gan Eden Inyan Shechita Ch. 16 P. 92B Col II.

¹² Gan Eden Inyan Shechita Ch. 16 P. 92B Col II.

¹³ Gan Eden does not intend the phrase "have obligated" to imply that the sages actually created a new law. We know this because he explicitly states that prophetic approval is a prerequisite to instituting to new halakhic ordinances (see "Notes on §23.4 – Man Made Law").

¹⁴ Gan Eden Inyan Shechita Ch. 16 P. 92B Col II.

abandoning the practice of *gid hanashe*. I agree with him that one should not give up the practice of *gid hanashe*. Jacob's wrestling with an Angel is a matter of no small significance; it is Jacob's struggle with the divine that gives Israel its name: "your name shall be no longer Jacob but Israel for you have fought with Elohim and with men and prevailed" (Genesis 32:29). Thus, when the Torah takes pain to mention a historical practice in memory of Jacob's ordeal, it is unlikely that it does so as a mere historical footnote. Surely the Torah intends to mark this practice as praiseworthy. Furthermore, it is not proper to ignore a memorial imbued with historical significance simply so as to enjoy a different cut of meat. Thus, while the prohibition on *gid hanashe* is not a mitzvah per se, it is a practice of paramount importance that should be followed.

Now, one might object that my claim that *gid hanashe* is "not a mitzvah", but should nevertheless be followed is a contradiction in terms. I would respond that there are at least two distinctions between a mitzvah and an advisable practice. First, a court cannot punish one for abandoning an advisable practice¹⁵. Second, a practice cannot take precedence over an actual mitzvah. Should one be forced to choose between following a practice and obeying a mitzvah, one must always choose the mitzvah.

Rav Kirkisani on Gid Hanashe

Rav Kirkisani held that the Torah mentions *gid hanashe* so as to highlight the importance of observing of the practice. His argument is similar to the claim I make above that the Torah intends to encourage, even if not require, the practice of *gid hanashe*. Rav Kirkisani goes even further, arguing that the Torah not only encourages keeping *gid hanashe*, but also affirms that it is mandatory.

"We have said that Moses was the one who wrote all the instruction from the words of the Lord of the Universe and His reciting from the beginning of the creation to its end. God said that the Children of Israel would not eat the gid hanashe, and this is because of the story of Jacob, the prophet, peace be upon him, with the angel.

*From this, we conclude that Jacob obligated his descendants to do this forever and it became a religious duty for them. God, Exalted and Glorified be He, told Moses of this to affirm its obligation [i.e., the obligation of refraining from the gid hanashe] so that no one of the nation would ever be against it."*¹⁶

§15.8 The Gid Hanashe in Fowl

The Torah describes the *gid hanashe* as being "in the hollow of the thigh". Because birds do not have a clear "hollow of the thigh", some sages held that it is permissible to consume the *gid hanashe* in fowl. Other sages held that the *gid hanashe* is forbidden in fowl as well as in land animals. Rav Aharon the Younger adopts the latter opinion. He argues that the practice of refraining from eating *gid hanashe* is not a result of *gid hanashe* being in the thigh, it is a result of Jacob having limped due to injury to his *gid hanashe*. Because all animals may suffer limping if injured in their *gid hanashe*, Rav Aharon concludes that the *gid hanashe* is forbidden even in fowl.

¹⁵ This is so, with the exception of special cases where abandoning a practice is itself a violation of a mitzvah. For example, if one swears an oath to uphold a practice and then abandons the practice he has violated the prohibition on breaking oaths. Alternatively, abandoning a commonly accepted business practice may in some cases be fraud.

¹⁶ *Kitab al-anwar wal-maraqib*, Code of Karaite Law, by Rav Yaakov Kirisani, Vol. V., XII; 18 (Nemoy Edition, page 1216). I thank Shawn Lichaa for arranging for this translation and Rav Joe Pessah for reviewing this translation.

§15.9 Permitted Species

Some species, such as swine, are forbidden regardless of how they are slaughtered. The Torah provides criteria which determine which species may be eaten and which species are forbidden (Leviticus 11). These criteria vary depending on the kind of animal in question. The Torah divides animals into four kinds: land animals, birds, aquatic animals, and bugs. We now discuss which criteria make each of these four kinds permissible and how each kind must be slaughtered.

Land animals are permissible if they have split hooves and chew their cud (Leviticus 11:3). Land animals must be slaughtered with *shechita*.

All birds are permitted except for those birds that the Torah explicitly lists as forbidden (Leviticus 11:13-19). Unfortunately, we no longer know to which species many of the Hebrew names the Torah uses to describe forbidden birds refer. Thus, we may only eat birds that we know are permitted through *Sevel Hayerusha*. For example, chickens, geese, and swans. These birds, like land animals, should be slaughtered through *shechita*.

Aquatic animals are permitted for consumption only if they have both fins and scales (Leviticus 11:9). Some fish lose their scales once they are removed from the water. Nevertheless, these fish are permissible because the Torah states we may eat fish that have “fins and scales in the water, **in** the seas and **in** the rivers” (Leviticus 11:9). That is, we may eat the fish so long as they have fins and scales while in the water.

The proper method to kill aquatic creatures is to fish them as it is written: “even if all the fish of the sea were fished for them” (Numbers 11:22). Thus, any fish that has died on its own, washed up on shore, or been impaled with a spear is not permissible for consumption. Some sages held that just as meat needs to be slaughtered by a faithful Jew, so too fish should be killed by a faithful Jew¹⁷. Others held, however, that it is permissible to eat fish gathered by a non-Jew.

Only four species of bugs are permitted (Leviticus 11:22). All four permitted species are locusts with jointed legs (Leviticus 11:21). Unfortunately, we no longer know to which species the Hebrew names for these four species refer. Thus, we may not eat any type of locust.

§15.10 Animal Derivatives

Any product that is derived from an animal forbidden for consumption is itself forbidden for consumption. This is because the Torah teaches us to “not make ourselves detestable” (Leviticus 11:43) through these creatures. We are therefore to avoid eating animal products from these species. Furthermore, the Torah states regarding forbidden animals both that we shall not eat “them” (Leviticus 11:4,42) and that we shall not eat “from their flesh” (Leviticus 11:8,11). The latter wording serves to

¹⁷ *Eshkol HaKofer* explains that this is because non-Jews might kill fish in ways other than fishing. For example, by stabbing them or by bludgeoning them once on land. Furthermore, non-Jews might mix allow the fish to mix with impure aquatic animals. See *Eshkol HaKofer* Daf 90A Col 2 Ch. 235

prohibit anything that comes out of their flesh including milk or eggs¹⁸. This reading is confirmed in the book of Ezekiel. God tells Ezekiel to cook food on human excrement so as to symbolize Israel's hardship in the exile (Ezekiel 4:12-13). Ezekiel, knowing that human excrement is ritually impure because human corpses are impure, protests that "my soul has never become impure until now" (Ezekiel 4:14). In response, God allows Ezekiel to cook his food on cow dung (Ezekiel 4:15). Unlike the human excrement, the cow dung is considered ritually pure because it is produced by a pure animal.

For the reasons discussed above, human breast milk is generally forbidden for consumption. Only young children who have not yet been weaned may drink of it. Likewise, if one is sharing a drinking glass with his fellow and sees visible spittle, one should be cautious so as to wipe it up before using the glass. In general, however, one need not worry about sharing utensils so long as no spittle is visible or tangible.

§15.11 Do Not Kill an Animal and Its Young on The Same Day

The Torah prohibits killing an animal and its young on the same day: "whether cow or ewe you shall not slaughter it and its son on the same day" (Leviticus 22:28). Although scripture refers to the young animal with the term "son" ("*beno*"), this term may be used to refer to either gender. Thus, the prohibition on killing an animal and its young applies regardless of whether the animals in question are male or female. Should one nevertheless slaughter an animal and its young on the same day, the meat of the animal slaughtered first is permissible because the act of slaughtering the first animal was itself permissible. The meat of the second animal was improperly slaughtered however, and is thus forbidden.

It is forbidden to slaughter a pregnant animal as this would constitute killing a mother and its young on the same day. The Rabbanites, however, permitted this act. The Karaite and Rabbanite Sages debated this matter extensively, but we do not discuss the details of the debate herein.

§15.12 Do Not Boil A Kid in Its Mother's Milk

The Torah commands not to "boil a kid in its mother's milk". This commandment is given out of compassion for the slaughtered animals. The same concern for compassion motivates the prohibition on slaughtering a mother and its young on the same day (§15.11) as well as the mitzvah to let an animal live 7 days with its mother (Leviticus 22:27). Just like these other mitzvot, the prohibition on boiling a kid in its mother's milk applies only to a literal pair of offspring and young; it is not a general prohibition on mixing meat and milk as the Rabbanites claim. Furthermore, because the mitzvah not to "boil a kid in its mother's milk" is commanded for the sake of compassion, this same mitzvah applies to all species. For example, one may not boil a calf in its mother's milk. Finally, the same concern for compassion teaches us not to consume the meat of any animal together with that of its offspring or parent. We may not, for example, consume the meat of a calf and the bull who sired it.

Notes on §15.12:

¹⁸ See Adderet Eliyahu Inyan Tumah veTehora Ch. 1 Daf 117B Col 1 for this argument.

One may wonder why the Torah specifically singles out the case of boiling a kid in its mother's milk if it intends to prohibit consumption of any animal together with its young. There are two answers to this question. First, as a rule, the Torah frequently teaches us general laws from specific cases¹⁹. Second, according to some of the sages explain that young goats have very dry meat. In order to soften their meat it was common to boil them in milk²⁰. Perhaps the milk used was commonly the mother's milk because a young goat's mother was likely to be producing milk so as to feed the young goat.

Interestingly, the sages also note that the Torah prohibits the meat of the "bat haya'ana", meaning literally "daughter of the *ya'ana* (a *ya'ana* is a type of bird). It was more common to eat female (ie: "daughter") *ya'anot* since the male has very tough meat²¹. Nevertheless, the Torah intends to prohibit the entire *ya'ana* species not just the females just as it intends to forbid boiling young of any species in their mothers' milk. In both cases the Torah speaks to the most common practice but intends to prohibit all less common but similar actions.

§15.13 Melikah

The Torah generally uses the terms "*shechita*" or less frequently "*zevicha*" to describe the permissible slaughter of meat. Either of these terms refer to the process of slicing the neck. In the case of a few sacrifices, however, the Torah states that we are to perform a procedure known as *melikah*:

"he shall bring [two young pigeons] to the kohen who will offer that which is for the sin offering first, he shall break ("malak") the nape of its neck without separating it [completely]" (Leviticus 5:8)

The sages disagreed as to the precise nature of this procedure. Rav Anan Ben David believed that *melikah*, that is breaking the neck, was the proper procedure for slaughter any bird. This is mistaken, however, because we also find in Scripture that birds were killed through *shechita* (Leviticus 14:5). Other sages said that the kohen would perform *shechita* before breaking its neck through *melikah*. Yet another group of sages believed that *melikah* was equivalent to *shechita*. They believed the phrase "nape of its neck" ("*mol orpho*") to be better translated as "opposite the nape of its neck" - that is the front of the birds neck, where *shechita* would normally be performed. Finally, some sages believed that *melikah* was intended only for use in certain sacrifices. These sages argued that just as it would not be appropriate to use any procedure other than *melikah*, which is directly sanctioned by the Torah, to prepare these sacrifices so too it would be inappropriate to use anything other than *shechita*, which is sanctioned by the Torah (Deuteronomy 12:15), to slaughter regular meat.

§15.14 Forbidden Fruit

The Torah prohibits gathering fruit from a young tree. More specifically, a tree must be left unpicked for the first three years after it starts to bear fruit. Furthermore, the fruit of the fourth year are to be dedicated to the Temple. It is only in the fifth year that we may consume a tree's fruit:

"when you shall come into the land and plant all manner of trees for food, then you shall count the fruit thereof as forbidden. They will be forbidden for three years to you. And in the fourth

¹⁹ See Hekeish form #2 in §1.5

²⁰ See Keter Torah on Exodus 23:19 Daf 79A and Sefer HaMivhar on Exodus 23:19 Daf 47B.

²¹ See Keter Torah on Exodus 23:19 Daf 79A and Sefer HaMivhar on Exodus 23:19 Daf 47B.

year all its fruit will be holy to praise hashem with. But on the fifth year you may eat its fruit”
(Leviticus 19:23-25).

The sages disagreed as to whether the prohibition on fruit from young trees applies in the exile. Whereas certain mitzvot specifically mention the land of Israel²², the prohibition on fruit from young trees makes no such mention. This led some sages to believe that the prohibition on young fruit applies even outside of Israel. Other sages argued, however, that the reason for this prohibition is that the fruit of the fourth year would be brought to the Temple. In the absence of a Temple, these sages held that this prohibition no longer applies even in the land of Israel.

Notes on §15.14:

As noted above, some of the sages held that the prohibition on fruit from young trees applies outside Israel because the prohibition makes no mention of the land of Israel. Although the Torah does not literally mention the land of Israel in the context of the prohibition on eating young fruit, it does introduce the prohibition on young fruit with the clause “when you come into the land and plant all manner of trees for food”. Because the verse uses the definite article to refer to “**the** land”, I believe this phrase refers specifically to the land of Israel. It therefore seems to me that the prohibition on fruit from young trees applies only in the land of Israel.

²² For example, the *shemita* year: “When you come into the land that I am giving you the land shall rest a Shabbat to Hashem” (Leviticus 25:2)