

Parashat Emor

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The Torah's View on Slaughtering Animals

- Does the prohibition to slaughter an animal and its offspring on the same day apply to all animals or only to animals for sacrifices?
- What is the reason for this prohibition?
- Which other commandments are related to this prohibition?

A. Introduction

Parashat Emor begins with the topic of **preserving sanctity** and **sanctified food**. Chapter 21 details the laws of **priestly sanctity** (the prohibition to contract the impurity imparted by a dead body, the prohibition against inflicting ritual wounds, restrictions on shaving, restrictions on permissible marriage partners and the prohibition for a priest with a physical defect to serve in the Temple). Chapter 22 begins with the laws of **sanctified food**, which may be eaten only when one is pure. The latter part of the chapter discusses the sanctity of **sacrifices**. First, the Torah prohibits sacrificing animals with physical defects and describes the blemishes that disqualifies animals for sacrifice (Lev. 22:17-25). Sacrificing animals with blemishes would scorn the sanctity of the sacrifices; the link between this subject and our *parasha* is clear. The *parasha* further discusses two additional

conditions that disqualify an animal for sacrifice: A. If it is less than eight days old' (Lev 22:26-27); B. If its parent or offspring has been slaughtered that day (Lev. 22:28).

The Torah concludes its discussion of the sanctity of sacrifices by stating that the meat of the thanksgiving-offering may only be eaten until the morning after it is sacrificed (Lev 22:29-30). This law seems somewhat out of place, as it is not related to the sanctity of the sacrifice. Rather, this law concerns the time frame during which one is permitted to eat it. However, this law may be viewed as a continuation of the laws of eating sanctified food that were detailed at the beginning of the chapter. The meat of the thanksgiving-offering belongs to the category of “minor holies” [*kodashim kalim*], which are eaten by the owner of the sacrifice. Therefore, the laws pertaining to this sacrifice were not listed among the descriptions of the sanctified food eaten

1 This condition is part of the general requirements for animals that are sacrificed. However, there is also a clear connection between this law and the prohibition against sacrificing blemished animals mentioned earlier. Some commentators explain that the reason for this rule is that the animal is not yet fully formed or may die before it is eight days old. According to this interpretation, a newborn animal is comparable to a blemished animal (though only temporarily).

However, others explain that this prohibition is for spiritual reasons: when an animal is born, it forms an intense bond with its mother and the two must not be separated. According to this explanation, the prohibition against sacrificing a newborn animal is related to the law that follows: “You shall not slaughter it and its young in one day,” as we will discuss below.

by the priests. However, since this sacrifice may only be eaten under certain conditions, it should be included in a section discussing the proper treatment of sanctified objects.²

This lesson will focus on the commandment: “You shall not slaughter it and its young in one day.”

B. “It and its young” – Only Sanctified Animals?

The Parameters of the Prohibition

And a cow or sheep, you shall not slaughter it and its young in one day. (Lev. 22:28) וְשׁוֹר אֹךְ אֹךְ אֶתֹּו וְאֶת בְּנֹו לֹא תִשְׁחַטּוּ בְיוֹם אֶחָד. וַיִּקְרָא כ”ב, כח

Since this verse appears in the section discussing sacrifices, this commandment seems to apply to animals designated for sacrifice. However, the verse does not explicitly indicate this point. It does not state: “You shall not **sacrifice** its and its young”; rather: “You shall not **slaughter** it and its young.” Were it not for this context, the commandment would have been interpreted as referring to any slaughter – even that of ordinary animals. The Sages, however, state that this prohibition does apply to all animals:

[The prohibition pertaining to] אותו ואת בנו נוהג בין בארץ בין בחו”ל, בפני הבית ושלא בפני הבית, בחולין ובמוקדשין.
“It and its young” applies both inside and outside the Land of Israel, before the Temple

² Other possible interpretations are suggested by Seforno and *Emek Davar* on Lev. 22:27.

and not before the Temple to **both ordinary and sanctified animals.**

...The rabbis taught: From where do we know that “It and its young” applies to sanctified animals? Because it says: “A cow or a sheep or a goat, when it is born,” and it says afterwards: “And a cow or a sheep, you shall not slaughter it and its young in one day.” This teaches that [the law of] “It and its young” applies to sanctified animals. And if you say: it applies to sanctified animals, but not to ordinary animals – “A cow” separates this matter [from the previous one]. And if you say: it applies to ordinary animals, but not to sanctified animals – it says: “And a cow” – “And” [indicates that this] comes to add to the previous matter. (*Hullin 78a*)

...תנו רבנן: מנין לאותו ואת בנו שנוהג במוקדשין? - תלמוד לומר: “שור או כשב או עז כי יולד”, וכתוב בתריה [אחריו]: “ושור או שה אותו ואת בנו לא תשחטו ביום אחד”, לימד על אותו ואת בנו שנוהג במוקדשין. ואימא [ושמא תאמר]: במוקדשין אין [כן], בחולין לא? - “שור” הפסיק הענין. ואימא: בחולין אין, במוקדשין לא? - כתוב: “ושור” - וי”ו מוסיף על ענין ראשון. חולין עה, א

The Sages inferred from the text that the prohibition against slaughtering an animal and its offspring on the same day applies to all animals: it applies to sanctified animals since it is juxtaposed to the law regarding the minimum age of a sacrifice and is linked to it through the word “and”: “And from the

eighth day onward it may be accepted as a sacrifice... **And** a cow or sheep, you shall not slaughter it and its young in one day.” In addition, the prohibition applies to ordinary animals since it is phrased as a separate clause – “And a cow or a sheep...” It is not entirely dependent on the preceding law, and may therefore be interpreted as an independent prohibition.³

In light of the Sages’ interpretation, we must consider why the prohibition against slaughtering an animal and its offspring on the same day is mentioned specifically in this section, among the laws of sacrifices.

This may be explained in two ways:

- A. The main component of the prohibition applies to sacrifices, but it was expanded to include any type of slaughter.
- B. The main component of the prohibition applies to all sacrifices, and it appears in this particular section for another reason.

The first answer seems more logical – this commandment appears only once in the Torah, in a section dealing with the laws of sacrifices. It would make sense that the main component of this law applies to sacrifices. Still, we are left with a question: why does the main element of this law apply to

3 In footnote 1 we discussed how the prohibition of: “A cow or a sheep or a goat, when it is born...” may be associated with both the laws concerning the sanctity of the sacrifices and the prohibition of slaughtering an animal and its offspring on the same day.

sacrifices, and why was it expanded to include all animals?

**The
Humanity
of Animals**

Rabbi Samson Raphael Hirsch explains that the main component of this prohibition applies to sacrifices. He writes:

...All of these requirements coalesce into one concept: the relationship between the mother animal and her offspring. We might even dare to say that this idea considers this aspect of the animal to approach the characteristics of a human. Selfishness and concern for survival of self are the strongest motives in an animal's life. Sacrificing one's self to ensure the survival of others and commitment to their well-being are displayed by a mother animal when she gives birth and cares for her young. These are also the beginnings of an elevation to that level of disregard of self that defines human love... **Let that trace of humanity not be blurred, but emphasized through our sensitivity to it.** It should be noticed in this animal,

כל הדרישות האלה מצטרפות למושג אחד: יחס האם של הבהמה לזולתה. סבורים אנו שנוכל להעז ולומר: מושג זה תופס אותה בחינה של בהמה שיש בה משום התחלה של התקרבות לאופיו של האדם. אנוכיות, אהבה עצמית ודאגה לצרכי עצמה – הן המניע העז המפעיל את חיי הבהמה. הקרבה עצמית לצורך קיומו של הזולת ודאגה מתמסרת לשלומה – הן המתגלות ברחמי האם של הבהמה בשעת הלידה והטיפול בוולד. והן תחילת ההתרוממות לאותה שכחה עצמית המאפיינת את אהבת האדם... אל יטושטש אותו זכר של מידה אנושית, אלא יובלט תוך כדי התחשבות בו.

which symbolizes in its sacrifice man's moral vision. **That trace of humanity qualifies the animal for this role.** The need to be sensitive to this quality defines the Jewish concept of sacrifice: its only purpose is to promote human morality... Sensitivity towards the humanlike characteristics of animals is the foundation of the law of "It and its young."

יושם אליו לב באותה בהמה המייצגת בקרבן את חזונו המוסרי של האדם. אותו זכר של מידה אנושית מכשיר את הבהמה לייצוג זה. והצורך וההתחשבות במידה זו מאפיינים את מושג הקרבן היהודי: תכליתו היחידה היא קידומו המוסרי של האדם... ההתחשבות בבחינות האנושיות של הבהמה היא היסוד של דין "אותו ואת בנו".

According to Rabbi Hirsch, the purpose of sacrifice is to refine man's sense of morality. When offering a sacrifice, one is prohibited from destroying the aspect of humanity that an animal achieves by overcoming its nature and giving of itself to help another. Furthermore, when one brings a sacrifice, he must imagine that he himself is being sacrificed.⁴

4 Ramban writes:

כי בעבור שמעשי בני אדם נגמרים במחשבה ובדבור ובמעשה, צוה השם כי כאשר יחטא יביא קרבן, יסמוך ידיו עליו כנגד המעשה, ויתודה בפיו כנגד הדבור, וישרוף באש הקרבן והכי ליות שהם כלי המחשבה והתאוה, והכרעים כנגד ידיו ורגליו של אדם העושים כל מלאכתו, ויזרוק הדם על המזבח כנגד דמו בנפשו, כדי שיחשוב אדם בעשותו כל אלה כי חטא לאלהיו בגופו ובנפשו, וראוי לו שישפך דמו וישרף גופו לולא חסד הבורא שלקח ממנו תמורה וכפר הקרבן הזה שיהא דמו תחת דמו, נפש תחת נפש, וראשי אברי הקרבן כנגד ראשי אבריו, והמנות להחיות בהן מורי התורה שיתפללו עליו וקרבן התמיד, בעבור שלא ינצלו הרבים מחטוא תמיד ואלה דברים מתקבלים מושכים את הלב כדברי אגדה.

For since the actions of man are in thought, word and deed, God commanded that when one sins he must bring a sacrifice

Therefore, he must emphasize the self-sacrifice of the mother animal for her offspring; he certainly should not disrespect it through his very sacrifice. Therefore, the Torah prohibited sacrificing an animal and its offspring on the same day to highlight the bond and the devotion of the mother to its young.

In this case, why does the prohibition apply to ordinary animals as well? Rabbi Hirsch continues:

But this law also applies to ordinary animals, when one prepares a normal meal of meat, **to teach us that the table of a Jew is likened to the altar in terms of its moral purpose.** And since it is only slaughter that is prohibited,

אך דין זה נוהג גם בחולין, בשעת הכנת סעודה רגילה של בשר, ללמדנו ששולחנו של יהודי דומה למזבח מבחינת תכליתו המוסרית. והואיל ורק שחיטה אסורה ולא נחירה וכל המתה אחרת,

and lean his hands upon it, corresponding to his deeds, and verbally confess upon it, corresponding to his words, and burn the innards and kidneys, which are the organs of thought and desire, and the legs, corresponding to his hands and feet, which do all of his work, and sprinkle the blood on the altar, corresponding to his life's blood, so that one should think while doing all of these things that he sinned toward his God in body and soul, and that he is deserving of having his blood spilled and his body burned were it not for the kindness of the Creator, who took a substitute and a ransom from him in the form of this sacrifice, whose blood is instead of his blood, its life instead of his life, and its limbs instead of his limbs, and the portions of the sacrifice shall sustain the teachers of Torah, who will pray for him. And the daily sacrifice [is brought] since the people cannot refrain from sinning always. And these words are acceptable and appeal to the heart like the words of tales.

and not cutting off the head or any other form of killing – this proves that the purpose of this prohibition is not to be merciful, to spare the animal's feelings or the like. Rather, this is the reason for it: when we transform an animal's life into a source of food, we must remember the concept of humanity at the moment when we designate the animal to become absorbed into ourselves.

הרי מוכח שהאיסור איננו מחמת רחמנות כדי לחוס על רגשות הבהמה וכדומה. אלא זה טעמו של דבר: שעה שאנו הופכים חיי בהמה למזוננו נזכור את רעיון האנושיות, באותו רגע שבו היננו מייעדים בהמה להתבולל בעצמותנו.

According to Rabbi Hirsch, this prohibition has special significance with regard to sacrifices and therefore it was listed among the laws pertaining to sacrifices. However, any instance of a Jewish person eating meat parallels bringing a sacrifice. The prohibition holds significance for ordinary animals as well since it recalls the humanlike characteristics of the animal (love and devotion); therefore, the prohibition applies to any animal slaughtered.⁵

5 A *halachic* proof that the main component of this prohibition applies to sacrifices is evident in a case in which one violated the prohibition and slaughtered an animal and its offspring on the same day. The *Tosefta* states regarding sanctified animals:

אותו ואת בנו שעלו לגבי מזבח – ירדו, שאין המזבח מקדש אלא את הראוי לו.

[An animal] and its offspring that were brought up to the altar – they shall be taken down, as the altar only sanctifies what is appropriate for it. (*Tosefta* on *Korbanot* 9:2)

Rambam, on the other hand, argues differently:

השוחט אותו ואת בנו ביום אחד – הבשר מותר באכילה והשוחט לוקה.

C. Allowing the Slaughter of Ordinary Animals

In the wilderness
- slaughter only for sacrifices

There may be another reason this verse appears in the section detailing the laws of sacrifices. In *Parashat Acharei Mot*, the Torah states:

Any man from the House of Israel who slaughters a cow or sheep or goat in the camp, or who slaughters them outside the camp, and does not bring them to the entrance of the Tent of Meeting to offer as a sacrifice to God before the altar of God – blood shall be imputed upon that man; he has spilled blood, and that man shall be cut off from among his people.

(Lev. 17:3-4)

אִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל
אֲשֶׁר יִשְׁחַט שׂוֹר אוֹ כֶּשֶׁב
אוֹ עֵז בַּמַּחֲנֶה אוֹ אֲשֶׁר
יִשְׁחַט מִחוּץ לַמַּחֲנֶה:
וְאֵל פֶּתַח אֹהֶל מוֹעֵד לֹא
הֵבִיאוּ לְהִקְרִיב קָרְבָּן לֵה'
לִפְנֵי מִזְבֵּחַ ה' דָּם יִחֹשֵׁב
לְאִישׁ הַהוּא דָּם שִׁפְךָ
וְנִקְרַת הָאִישׁ הַהוּא מִקֶּרֶב
עַמּוֹ.
ויקרא י"ז, ג-ד

According to these verses, the nation was prohibited from slaughtering and eating meat that was not brought as a sacrifice. Slaughtering animals without offering them as a sacrifice was considered murder. One who wished to eat meat had to bring an animal as a peace-offering, after which he would be given a portion of the meat to eat. Under these circumstances

One who slaughters [an animal] and its offspring on the same day – **the meat is permitted** to be eaten and the one who slaughtered them is whipped. (Rambam, *Hilchot Shechita* 12a)

there would be no concept of slaughtering ordinary animals at all. When was this permitted?

Slaughtering
ordinary
animals - only
in the Land of
Israel

When the Lord, your God, expands your borders as He spoke to you, and you say: “I shall eat meat,” for your soul desires meat, you shall eat meat to your soul’s desire. If the place that God chooses to put His name there is distant from you, you shall kill of your herd and your flock that God gave you, as I commanded you, and you shall eat within your gates to your soul’s desire. (Deut. 12:20-21)

כִּי יִרְחִיב ה' אֱ-לֹהֶיךָ אֶת
גְּבוּלְךָ כַּאֲשֶׁר דִּבֶּר לְךָ
וְאָמַרְתָּ אֲכַלֶּה בָּשָׂר כִּי
תֵאָוֶה נַפְשְׁךָ לֶאֱכֹל בָּשָׂר
בְּכֹל אֹתוֹת נַפְשְׁךָ תֵאֱכַל
בָּשָׂר: כִּי יִרְחַק מִמֶּנּוּ
הַמָּקוֹם אֲשֶׁר יִבְחַר ה'
אֱ-לֹהֶיךָ לְשׁוּם שְׁמוֹ שָׁם
וְנִבְחַתָּ מִבְּקָרְךָ וּמִצֹּאֲנָנְךָ
אֲשֶׁר נָתַן ה' לְךָ כַּאֲשֶׁר
צִוִּיתְךָ וְאָכַלְתָּ בְּשַׁעֲרֶיךָ
בְּכֹל אֹתוֹת נַפְשְׁךָ.
דְּבָרִים "ב, כ-כא

These verses allow the consumption of “meat of desire,” or non-sacrificed meat, as a concession in a situation that a person lives far from the Temple. This was not relevant in the wilderness since the *Mishkan* always rested at the center of the nation’s encampment. Before the nation entered the Land of Israel, God foresaw a different reality that He would expand their borders and some would live far from the Temple.⁶ As long as the nation remained in the

6 It is possible that this seemingly technical explanation is based on a more fundamental approach towards eating meat: it is improper to eat meat without bringing it as a sacrifice since this is likened to spilling blood (i.e., murder): “Blood shall be imputed upon that man; he has spilled blood” (Lev. 17:4). In contrast, bringing an animal as a peace-offering is the

wilderness, they were forbidden from eating ordinary animals and could only eat from sacrifices, as Rashi notes:

But in the wilderness non-sacrificed meat was prohibited to them, unless one sanctified it and brought it as a peace-offering. (Rashi on Deut. 12:20)

אבל במדבר נאסר להם
בשר חולין, אלא אם
כן מקדישה ומקריבה
שלמים.
רש"י דברים י"ב, ב

While the nation was in the wilderness, all laws

only appropriate way to eat meat. Once the nation entered the Land of Israel, they transitioned to a more natural, non-miraculous way of life. In this new reality, people were not required to come to the Temple to eat meat; instead, they were allowed to partake of nature directly – even of animals. Still, the Torah emphasizes the flaw in this way of life: “Your soul **desires** meat, you shall eat meat to your soul’s **desire**... And you shall eat within your gates to your soul’s **desire**.” The Torah emphasizes the word “desire,” which generally appears in the negative context, to teach us that slaughtering ordinary animals is not ideal. God does not outright prohibit this in the Land of Israel, but He does place limitations on the slaughter of animals (i.e., the laws of ritual slaughter and the prohibition against slaughtering an animal and its offspring on the same day) to indicate that this is an imperfect act.

Hizkuni has another explanation for the difference between the period in the wilderness and the period in the Land of Israel. In his opinion, the nation was permitted to eat meat only when it was brought as a sacrifice to “accustom them to keeping themselves from idolatry, as it goes on to explain: ‘And they shall no longer sacrifice their sacrifices to the satyrs,’ in which they were immersed of Egypt, and so He commanded them now to make their ordinary animals into peace-offerings” (*Hizkuni* on Lev. 17:4).

According to *Hizkuni*, eating ordinary meat is not inherently problematic. It was prohibited while the nation was in the wilderness to disengage them from their practice of sacrificing to idols in Egypt. Once they were cured of this habit in the wilderness and entered the Land of Israel, ordinary animals resumed their usual permitted status.

We will discuss the permission to eat ordinary animals in detail later on.

pertaining to the slaughter of animals were relevant only for sacrifices.⁷ Once they entered the Land of Israel, they were permitted to eat ordinary animals and consequently the laws of slaughter were extended to apply to all animals.

7 Rambam contends that the commandment given in the wilderness applies only to ritual slaughter:

כשהיו ישראל במדבר לא נצטוו בשחיטת החולין אלא היו נחרין או שוחטין ואוכלין כשאר האומות ונצטוו במדבר שכל הרוצה לשחוט לא ישחוט אלא שלמים שנאמר "איש איש מבית ישראל אשר ישחט שור וגו' ואל פתח אהל מועד וגו' למען אשר יביאו וגו' וזבחו וזחי שלמים לה' וגו'". אבל הרוצה לנחור ולאכול במדבר היה נחר. ומצוה זו אינה נוהגת לדורות אלא במדבר בלבד בעת היתר הנחירה ונצטוו שם שכשיכנסו לארץ תאסר הנחירה ולא יאכלו חולין אלא בשחיטה וישחטו בכל מקום לעולם חוץ לעזרה שנאמר כי ירחיב ה' אלהיך את גבולך וגו' וזבחת מבקרך ומצאנך אשר נתן ה' אלהיך וגו' וזו היא המצוה הנוהגת לדורות לשחוט ואחר כך יאכל.

When the Israelites were in the wilderness, they had not yet been commanded regarding the ritual slaughter of ordinary animals; rather, they would cut off their heads or slaughter them and eat them in the manner of the other nations. And they were commanded in the wilderness that anyone who wishes to ritually slaughter an animal, should only slaughter it for a peace-offering, as it is said: "Any man from the House of Israel who slaughters a cow...and [does not bring them] to the entrance of the Tent of Meeting to offer...and sacrifice them for peace-offerings to God, etc." But one who wished to cut off the animals head [and eat it] would do so. And this commandment does not apply for generations, but only in the wilderness, when killing animals [without ritual slaughter] was permitted. And they were told there that when they enter the Land of Israel, killing animals [in this manner] would be forbidden, and they would only be permitted to eat ordinary animals through ritual slaughter, and they would be permitted to slaughter anywhere in the world outside of the Temple court, for it says: "When the Lord, your God, expands your borders... you shall kill of your herd and your flock that the Lord, your God, gave you..." This is the commandment that applies for generations – to slaughter and then eat. (Rambam, *Hilchot Shechita* 4:17-18)

The source for this disagreement may be found in *Sifri* (75) and *Hullin* 16b.

This explains why the law regarding an animal and its offspring is listed among the laws of sacrifices and not the laws of slaughtering ordinary animals. According to the above, **when this commandment was given, there was no concept of slaughtering ordinary animals.** The Sages' analysis that concluded that this law applies to all animals is relevant once the people entered the Land of Israel.

D. For the Sake of Mercy?

Mercy and
Causing
Animals
Suffering

What is the reason for the prohibition against slaughtering an animal and its young on the same day?

Rambam states that this is due to mercy:

And so it is prohibited to slaughter it and its son in one day, as a precaution and a fence lest he slaughter the young before its mother – for this is inflicting great suffering upon the animal; for there is no difference between the suffering of man and the suffering of other animals in this regard. For the love of a mother and her mercy upon her young are not the results of logic, but of the power of imagination which is found in most animals as it is in humans... (Guide of the Perplexed III:48)

וכן נאסר לשחוט אותו ואת בנו ביום אחד, סייג והרחקה, שמא ישחט מהם הבן לפני האם, כי צער בעלי החיים בכך גדול מאד, כי אין הבדל בין צער האדם בכך ובין צער שאר בעלי חיים, כי אהבת האם וחנינתה על הבן אינו תוצאה של הגיון אלא פעולת הכח המדמה המצוי ברב בעלי החיים כמצויאותו באדם... מורה נבוכים, מאמר ג', פרק מ"ח

According to Rambam, this law is an extension of a prohibition against slaughtering an animal before its mother to avoid causing the mother suffering. In short, this prohibition is an expression of God's mercy towards his creatures. This idea is also expressed in the following *midrash*:

And why is a baby circumcised at the age of eight days? For God has mercy on him and waits until [the child] has some strength in him. And just as God's mercy is upon man, so it is upon animals. From where do we learn this? As it is said: "And from the eighth day onward it may be accepted as a sacrifice." And not only this, but furthermore, God said: "You shall not slaughter it and its young in one day." And just as God's mercy is upon the animals, so it is upon the birds. From where do we learn this? As it is said: "If a bird's nest chance to be before you..." (Deut. 22:6).

ולמה התינוק נימול לשמונה ימים? שנתן הקב"ה רחמים עליו להמתין לו עד שיהא בו כחו, וכשם שרחמיו של הקב"ה על האדם כך רחמיו על הבהמה. מניין? שנאמר: "והלאה ירצה לקרבן" ולא עוד, אלא שאמר הקב"ה: "אותו ואת בנו לא תשחטו ביום אחד." וכשם שנתן הקב"ה רחמים על הבהמה כך נתמלא רחמים על העופות, מניין? שנאמר (דברים כ"ב, ו): "כי יקרא קן צפור לפניך." דברים רבה ו', א, ד"ה "כי תצא"

According to this *midrash*, God's mercy towards all of his creatures forms the basis for the prohibition against slaughtering an animal and its young on the same day. This *midrash* also mentions the previous commandment requiring a sacrificed animal to be at least eight days old. These two adjacent commandments both relate to the relationship between a mother and her young, and both express God's mercy towards animals.⁸

⁸ This raises another possible explanation for the fact that the prohibition against slaughtering an animal and its

The *midrash* mentions another commandment which attests to God's mercy: the commandment of driving a bird away from its nest. Many *midrashim* connect between this commandment and the prohibition in our *parasha* regarding an animal and its young, citing them as two commandments that epitomize God's compassion. *Midrash Tanhuma* states:

<p>“And a cow or sheep, you shall not slaughter it and its young in one day.” When the text states: “A righteous man regards the life of his beast,” etc. (Prov. 12:10) – this is God, Who said: “You shall not take the mother with its young” (Deut. 22:6). “And the mercy of the wicked is cruel” (Prov. 12:10) – this is Sennacherib, about whom it was written: “The mother was dashed in pieces with her children” (Hos. 10:14).</p>	<p>”ושור או שה אותו ואת בנו לא תשחטו ביום אחד.” זה שאמר הכתוב: ”יודע צדיק נפש בהמתו” וגו’ (משלי י”ב, י), זה הקב”ה, שאמר ”לא תקח האם על הבנים” (דברים כב, ו); ”ורחמי רשעים אכזרי” (משלי שם) זה סנחריב, שכתוב בו ”אם על בנים רוטשה” (הושע י, יד). דבר אחר: ”יודע צדיק” זה הקב”ה, שאמר ”ושור או שה, אותו ואת בנו” (ויקרא כ”ב, כח) וגו’, ”ורחמי רשעים אכזרי”, זה המן, שכתוב בו ”להרג ולאבד” וגו’ (אסתר ג, יג). מדרש תנחומא, פרשת אמור, סימן י”ח</p>
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young appears here. When the Torah states that a sacrificed animal must be at least eight days old, it simply follows this requirement with a related commandment pertaining to slaughter that also stems from God's mercy. According to this interpretation, there is no inherent connection between this prohibition and the laws of sacrifices; it was mentioned only as an addendum to the previous commandment.

Another explanation: “A righteous man regards the life of his beast” – this is God, Who said: “And a cow or sheep, [you shall not slaughter] it and its young,” etc. (Lev. 22:28). “And the mercy of the wicked is cruel” – this is Haman, about whom it was written: “To kill and to cause to perish [all Jews, both young and old, little children and women in one day],” etc. (Est. 3:13). (*Midrash Tanhuma on Parashat Emor*, 18)

There are clear parallels between the two commandments: both involve a mother and her offspring, both prohibit taking the offspring, and in both cases the prohibition results from Divine mercy.

**Educating
Man**

Ramban disagrees with Rambam, stating that the reason for these two commandments is not God’s mercy for His creatures:

<p>“If a bird’s nest chance to be before you” – ...It is not that God is protecting the bird’s nest; and His mercy is not the reason for [the prohibition concerning] “It and its young,” for His mercy does not extend to those of an animal nature to the extent that He would prevent us from fulfilling our needs through them – for in that case, He would have prohibited slaughtering them.</p>	<p>”כי יקרא קן צפור לפניך“... שלא חס הא-ל על קן צפור ולא הגיעו רחמיו על אותו ואת בנו, שאין רחמיו מגיעין בבעלי הנפש הבהמית למנוע אותנו מלעשות בהם צרכנו, שאם כן היה אוסר השחיטה. אבל טעם המניעה ללמד אותנו מדת הרחמנות ושללא נתאכזר.</p>
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But the reason for this prohibition is **to teach us the trait of mercy**, so that we should not be cruel. For cruelty spreads through the soul of man, as it is known that butchers who slaughter great oxen and deer are men of blood, slaughterers of people, and are exceedingly cruel... And behold, these commandments regarding animals and birds are not due to His mercy for them, but are decreed upon us to guide us and teach us about good character traits... (Ramban on Deut. 22:6)

כי האכזריות תתפשט
בנפש האדם, כידוע
בטבחים שוחטי השורים
הגדולים והיהמורים
שהם אנשי דמים זובחי
אדם אכזרים מאד... והנה
המצות האלה בבהמה
ובעוף אינן רחמנות
עליהם, אלא גזירות בנו
להדריכנו וללמד אותנו
המדות הטובות...
רמב"ן, דברים כ"ב, ו

Ramban does not accept the premise that God gave us these two commandments due to His mercy towards animals and birds. In his opinion, the purpose of the commandments in general and these two commandments in particular is to educate man. Ramban agrees that the foundation for these two commandments is mercy. However, it is not God's mercy towards the animals that moves Him to require man to act in this way. God gave these commandments to train man to be merciful.

Rashbam explains the commandment regarding the bird's nest similarly:

I already explained by the commandments of “You shall not cook a kid in its mother’s milk” and “It and its son” that it seems cruel and gluttonous to take and slaughter and cook and eat a mother and its young together. (Rashbam on Deut. 22:6)

כבר פירשתי ב"לא תבשל גדי בחלב אמו" וכן ב"אותו ואת בנו" שדומה לאכזריות ורעבתנות לקחת ולשחוט ולבשל ולאכול אם ובנים יחד. רשב"ם, דברים כ"ב, ו

Rashbam includes the prohibition against cooking a kid in its mother’s milk, stating that these three commandments, which forbid one from slaughtering a mother and its young together, prevent man from becoming cruel and gluttonous.⁹

One argument Ramban raises against Rambam’s explanation is that had God truly felt mercy towards animals and wanted to prevent them from being harmed, He would have completely forbidden slaughtering them . Ramban claims that these commandments are intended not to prevent the suffering of animals but to educate mankind. Therefore, they serve their purpose even if they merely minimize the animal’s suffering and encourage man to improve his character. Yet there is still some unavoidable element of cruelty in these acts: how is it merciful to drive away a bird as she sits on the eggs in her nest?¹⁰ How is it merciful to

9 See also Ibn Ezra on Ex. 23:19.

10 According to some opinions, one must drive away the bird even when he does not need the eggs (*Birkei Yosef, Yoreh De’a* 292:6; *Chavat Ya’ir* 67). However, many later commentators

leave a mother alive while her young is slaughtered – or to leave the offspring alive without its mother?" Yet many *midrashim* and commentators explain that these commandments are based on Divine mercy or educate man to be merciful. Even if all the details are not consistent with this explanation,¹² the general reason and personal impression is one of mercy.

state that one is only obligated to observe this commandment if he is interested in the eggs (Rabbenu Bahya on Deut. 22:7; *Chatam Sofer, Orach Chaim* 100; *Chazon Ish, Yoreh De'a* 175). Rambam did not discuss this issue, and he may be of the opinion that one is not obligated to drive away a mother bird if he does not intend to use the eggs.

- 11 On the topic of driving away the mother bird, the *Mishna* states:

האומר "על קן צפור יגיעו רחמיך", "ועל טוב יזכר שמך", "מודים מודים" – משתקין אותו.
One who says: "Your mercy extends to the bird's nest," "And Your name will be remembered for good," "Thank you, thank you [*modim, modim*]" – he must be silenced. (*Mishna tractate Berachot* 5:3)

The Talmud states the following as one reason for the requirement to silence one who says, "Your mercy extends to the bird's nest":

מפני שעושה מדותיו של הקב"ה רחמים, ואינן אלא גזירות.

Since he implies that the attributes of the Holy One, Blessed be He, are exclusively of mercy, but they are in fact exclusively decrees. (*Berachot* 33b)

This *mishna* raises a number of questions regarding the nature of the commandments in general and the commandment to drive a mother bird away specifically; however, an in-depth discussion of this issue is beyond the scope of this lesson. We will only briefly mention that Ramban's explanation quoted above is based on this Talmudic statement. Ramban understands that the mercy upon which certain commandments may be based is an objective matter of God's mercy (or lack thereof) towards animals, while "decrees" are a subjective matter of educating man.

- 12 For example, the fact that it applies only to kosher slaughter (*Mishna tractate Hullin* 5:2; Rambam, *Hilchot Shechita* 12:3).

E. Restrictions on Slaughter

Reason
for the
prohibition
- preventing
extinction

In his explanation quoted above, Ramban suggests another explanation for these commandments:¹³

...So that the text would not permit man to destroy and eradicate a species, although it had permitted man to slaughter animals of that species. And when one kills a mother and her young in one day, or takes them when they may fly freely, it is as though he eradicated that species.

...שלא יתיר הכתוב לעשות השחתה לעקור המין אף על פי שהתיר השחיטה במין ההוא. והנה ההורג האם והבנים ביום אחד או לוקח אותם בהיות להם דרוור לעוף כאלו יכרית המין ההוא.

13 Similarly, *Sefer HaChinuch* writes:

שהאדם יתן אל לבו כי השגחת הקב"ה על כל מיני בעלי חיים בכלל שיתקיימו לעולם, ע"כ לא יבטל מין מהמינים לגמרי כל ימי עולם. ולכן נמנעים מלכלות האילן וענפיו ביחד, לרמוז זה.

That man take notice that the providence of the Holy One, Blessed be He, rests upon all species of animals in general and ensures that they continue to exist, and so no species will ever be completely eradicated in all the days of the world. And therefore we avoid destroying a tree and its branches [i.e. a mother and its young] together, to hint to this. (*Sefer HaChinuch*, commandment 294)

He later quotes Ramban's explanation:

ועוד נוכל לומר בענין על צד הפשט כמו כן, שהוא לקבוע כנפשנו מדת החמלה ולהרחיק מדת האכזריות שהיא מדה רעה, ולכן, אף על פי שהתיר לנו האל מיני בעלי חיים למחיינו תנו צונו לבל נהרוג אותנו ואת בנו ביחד, ולקבוע בנפשנו מדת החמלה.

And we might also say on the subject, according to its simple understanding, that it comes to instill in our souls the attribute of compassion and distance us from the attribute of cruelty, which is an evil quality, and therefore, although God allowed us certain species of animal for our food, He commanded us not to kill an animal and its young on the same day, to instill in our souls the attribute of compassion.

According to Ramban, while God permitted man to eat meat, man must do so within reasonable limits; he is forbidden to slaughter animals in a manner that would bring about their extinction. Killing an animal and its offspring on the same day and taking the mother and young together symbolizes the destruction of a family. When part of the family is left alive, it allows for the possibility of continuity. Observing this commandment forces man to remember that while he may eat animals, he must do so in a limited way. The animals are not his property but God's creatures and God seeks to allow them to continue to exist. Man is forbidden to cause animals to become extinct and this is symbolized by the prohibition against slaughtering an animal and its offspring on the same day.

Therefore, man must place restrictions on his consumption of animals to allow other species to continue to exist and to learn humility. He must realize that the world does not belong to him and that he may not do with it as he wishes. He is forbidden to destroy the world:

When God created Adam, He took him among all of the trees of the Garden of Eden and said to him: "See My creations, how fine and praiseworthy they are; and everything that I created, I created for you. Take care that you do not spoil and destroy My world..." (*Kohelet Rabba* 7:1, s.v. "Re'eh")

בשעה שברא הקב"ה את אדם הראשון נטלו והחזירו על כל אילני גן עדן ואמר לו ראה מעשי כמה נאים ומשובחים הן וכל מה שבראתי בשבילך בראתי, תן דעתך שלא תקלקל ותחריב את עולמי... קהלת רבה, ז', א, ד"ה "ראה"

Eating
Meat – An
Imperfect
State

When man was created, he was only permitted to eat plants:

Behold, I have given to you every herb...and every tree... shall be for you to eat. (Gen. 1:29)

הנה נתתי לכם את כל עשב... ואת כל העץ... לכם יהיה לאכלה.
בראשית א', כט

Adam was not permitted to eat animals. In the initial ideal state of existence, man does not eat animals. Although he does have authority over them – “And have dominion over the fish of the sea, and over the birds of the air...and over every creeping thing that creeps upon the earth” (Gen. 1:28), he is prohibited to slaughter and eat them. However, the story of Cain and Abel demonstrates that the slaughter of animals for sacrifices was permitted– Abel offers animal sacrifices to God, Who favors his offering over Cain’s (Gen. 4:4). Noah also brings sacrifices following the flood (Gen. 8:20).

This reflects a fundamental difference between slaughtering animals for sacrifice and slaughtering them for food. Sacrificing animals is a permissible and even positive act, which is why it was permitted since the creation of the world. Sacrifice is a form of giving to God and recognizing His authority over us. There is no element of man attempting to dominate nature in this act. The act of sacrifice is likewise not considered parallel to spilling blood since man does not slaughter the animal for his own needs but for a higher purpose.

Later man was given permission to eat ordinary meat:¹⁴

Every moving thing that lives shall be for you to eat; as the green herb, I have given you everything. (Gen. 9:3)

כל רמש אשר הוא חי לכם יהיה לאכלה כירק עשב נתתי לכם את כל. בראשית ט', ג

Man was given permission to eat meat, but with certain restrictions. Some of these restrictions apply to all of humanity (such as the prohibition against eating the flesh of a live animal, which is one of the seven Noahide laws that must be observed by all of the nations). However, most of them apply to the Jewish people alone. The Jewish nation's elevated status requires them to adhere to higher moral standards, which include additional limitations on killing and eating animals. At the nation's inception in the desert, they were prohibited from eating any meat that had not been sacrificed. As mentioned above, one who wished to eat meat in the wilderness was first required to bring the animal as a sacrifice and was only then permitted to eat it (Lev. 17). At the time, slaughtering animals only for food was considered murder:

Any man from the House of Israel who slaughters a cow or sheep or goat... Blood shall be imputed upon that man; he has spilled blood... (Lev. 17:3-4)

אִישׁ אִישׁ מִבֵּית יִשְׂרָאֵל אֲשֶׁר יִשְׁחַט שׁוֹר אוֹ כֶּשֶׂב אוֹ עֵז... דָּם יִחָשֵׁב לְאִישׁ נְהוּא דָם שָׁפַךְ (וַיִּקְרָא י"ז, ג-ד)

14 Eating meat was permissible following certain greater spiritual and physical changes to the world (see the commentators on Gen. 9). ~ 27 ~

The nation's circumstances in the wilderness were similar to the situation when the world was created.¹⁵ Once the nation entered the Land of Israel, eating meat was permitted only under conditions that would remind man of the limits of his dominance over animals and the proper way to treat animals – as beings with a soul.

The prohibition against slaughtering an animal and its young on the same day is one of these limitations. It serves to remind man that his power over other living things is limited; that animals have a soul; and that although we are permitted to eat them, we must be conscious of their status.

F. Summary

We discussed two possible explanations for the commandments to drive a bird away from its nest and not to slaughter an animal and its young on the same day.

The first and more accepted reason is due to mercy. According to most commentators, these two commandments direct our attention to the fact that animals have a soul and are compassionate toward

¹⁵ According to the *Zohar*, the generation of the wilderness was not allowed to enter the Land of Israel due to their elevated spiritual level and their connection to the upper world (*Zohar* I:21-22).

their young. Therefore, we must in turn treat them with compassion.¹⁶

The second reason is that these commandments place limitations on slaughter. Slaughtering a mother and her young on the same day is symbolic of the destruction of the entire family. Man must recognize that other creatures are not entirely under his control and he may not destroy them completely.

These two reasons are actually related: since animals have souls, ideally one should not eat them at all. Due to changes that took place in both humanity and the world, man was permitted to eat meat, but this was clearly a concession to an imperfect situation. Man must be constantly aware that animals too have souls. He must treat them with compassion by limiting his consumption of them and never eradicating them completely.

¹⁶ The opinion of Rabbi Hirsch quoted earlier in the lesson is also related to this reason. In his opinion, when eating animals we must be conscious of their humanlike qualities such as their devotion to their young.