

Why is there no kosher meat or poultry that is certified humane?

By: HESHEY ZELCER and MALKY ZELCER

I. Introduction:

The United States Department of Agriculture (USDA) website provides links to approximately half a dozen non-governmental organizations that certify products as produced from humanely raised animals.¹ Why are these certifying organizations necessary? The sad reality is that the USDA does not monitor how animals are raised on farms, despite the fact that farm animals today are treated much worse than they were fifty years ago. Given the prevalence of inhumane animal treatment on modern animal farms, why is it that to this day not a single piece of kosher meat or poultry in the United States is certified humane by any of these certifying organizations?

We begin by examining how and why animal farms have changed—for the worse—in their treatment of the animals they raise.

II. From “Family Farming” to “Factory Farming”

Family Farms. When we shop for meat and poultry in our local kosher supermarket we see neatly packed portions, perfectly visible through clear plastic wrapping. When we think about how the meat or poultry got to the supermarket shelf we might recall childhood images from Farmer Brown kiddie books: the red barn, a cow munching on grass, a yellow chicken pecking at the ground, and Farmer Brown with his overalls and straw hat, leaning against a wooden fence.

Similarly, if you were fortunate enough to have read any of the James Herriot (James Alfred Wight) books, you will recall many satisfying images of small family farms, and a tireless veterinarian who runs from one family farm to another, providing compassionate care to “all creatures

¹ See <https://www.nal.usda.gov/awic/certification-programs>.

Heshey Zelcer is on the editorial board of *Hakirah* and has published books and articles on Jewish law, philosophy, history and liturgy. Malky Zelcer has previously published in this journal and is an executive in the healthcare industry.

great and small.” Here is James Herriot describing a tender scene of a newborn calf and its mother who had just been through a difficult delivery:

The cow was stretched out on her side, her head extended wearily along the rough floor. Her ribs heaved, her eyes were almost closed; she looked past caring about anything. Then she felt the calf’s body against her face and there was a transformation; her eyes opened wide and her muzzle began a snuffling exploration of the new object. Her interest grew with every sniff and she struggled on to her chest, nosing and probing all over the calf, rumbling deep in her chest. Then she began to lick methodically. (James Herriot’s “All Creatures Great and Small”)

Finally, if you grew up in or near New York City you were likely to have spent many summer weekends traveling along NYS Route 17, passing Family Farms with stately cows grazing peacefully in lush green fields. Small Family Farms, once the norm in the United States, satisfied the public’s demand for meat and poultry.

In the mid twentieth century, however, a transformation began to take place. Family Farms began to disappear and were replaced by huge Factory Farms. By the end of the twentieth century Factory Farms were ubiquitous and Family Farms practically ceased to exist.

Factory Farms. After WWII American soldiers returned home from foreign shores. The great war was finally over and the newly discharged soldiers married, settled down and began raising families. The expanding population needed to be fed. At the same time, technology was advancing. And so, given the task of feeding an ever-expanding American population, the farming industry underwent a revolution. With advanced machinery and technology, and the introduction of antibiotics and growth hormones, farmers could now produce animals and animal products at unprecedented rates. America would be able to eat affordably. Today, 99% of all meat consumed in the United States comes from Factory Farms.²

What is Factory Farming? It is a system of rearing livestock using intensive methods, by which poultry or cattle are confined indoors under strictly controlled conditions. A Factory Farm is a large-scale industrial operation that houses thousands of animals raised for food—such as

² https://www.huffingtonpost.com/2014/03/17/factory-farming-facts_n_4063892.html.

chickens, turkeys and cows. It treats the animals with hormones and antibiotics to prevent disease and maximize their growth and food output.³

The USDA is responsible for inspecting meat, poultry products and egg products. It also oversees livestock slaughter⁴ to assure humane treatment.⁵ There are no federal laws, however, that set humane care standards for animals in Factory Farms⁶ (although there are some state laws.⁷) Therein lies our problem.⁸

What actually takes place on these unregulated Factory Farms? There are no precise answers as not all Factory Farms are the same, but the following is a summary of what has been reported by authors, activist groups and news agencies.

Poultry (chicken and turkey): layers. Chickens raised for eggs (also known as “layers”) are often raised in battery cages with each chicken

³ For explicit (i.e., revolting) videos of Factory Farming see:

<https://www.youtube.com/watch?v=ijKQRo8zcqQ>;
www.mercyforanimals.org/investigations; www.gary-tv.com/en/.

⁴ Chicken, turkey and ducks are exempt from the Humane Slaughter Act. See reference to www.HuffingtonPost.com above.

⁵ <https://www.fsis.usda.gov/wps/portal/fsis/topics/inspection/mpi-directory>.

⁶ “In the United States, most livestock production industries have developed and implemented science-based animal care guidelines in response to consumer concerns that animals being raised for food or fiber production are treated humanely. Assurances that animals are being raised according to these guidelines are provided through voluntary third-party audits rather than legislation.” See www.nal.usda.gov/awic/animal-welfare-audit-and-certification-programs.

“USDA Animal Care, a unit within the Animal and Plant Health Inspection Service, administers the Animal Welfare Act (AWA). This federal law establishes requirements concerning the transportation, sale, and handling of certain animals and includes restrictions on the importation of live dogs for purposes of resale, prohibitions on animal fighting ventures, and provisions intended to prevent the theft of personal pets ... The AWA, which became law in 1966, does not cover every type of animal used in every type of activity. The following animals are not covered: farm animals used for food or fiber (fur, hide, etc).” See www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_AWA.

⁷ California Penal code 597, e.g., goes a long way toward outlawing cruelty to animals. However, many state farming regulations have Common Farming Exemptions which “... make legal any method of raising animals so long as it is commonly practiced within the industry,” Foer, *ibid.*, pp. 50-51.

⁸ Since there are no federal regulations on how farm animals should be treated Factory Farms can prevent anyone from visiting. The information we have about Factory Farms often comes from activists who sneak in at night and observe the conditions in which animals are raised. We therefore use sources from activists who knowingly or not may overstate their case.

confined to a floor space smaller than the size of a standard sheet of writing paper. Constantly standing on mesh flooring causes them pain. Their claws sometimes grow around the wire cages. They have difficulty turning around and they rub against each other and the wire cages, causing loss of feathers and bruising. Typically, cages are stacked one on top of another (from 3 to 9 tiers) and the chickens become covered in feces from those above.⁹

Factory Farms are now able to get the average chicken to lay 250 eggs annually. How is this done? They are kept in near total darkness, on a low-protein, almost starvation diet for up to 14 days. Afterwards, they are given a high-protein diet and exposed to light for 16-20 hours a day.¹⁰ This shocks their bodies into molting.¹¹ It is common for 5% to 10% of hens to die during this forced molting process. Nevertheless, it is still considered “good practice” as it increases overall egg production on the farms.¹²

Poultry (chicken and turkey): broilers. Chickens raised for consumption (also known as “broilers”) live in slightly better conditions than “layers”; they get about one square foot of living space. Their march to the slaughter house is vile. They are loaded onto trucks by the thousands, without food or water. Many die during transportation from suffocation and starvation.

According to the USDA, 36.8 billion pounds of broiler chicken were raised and slaughtered for consumption in 2013. Since these animals live in close quarters, some farm operators remove the beaks of chickens, turkeys and ducks to prevent them from pecking one another to death. Although some scientists claim that this practice does not cause the animals excessive pain, a significant portion of them die during the ordeal.

Selective breeding and the obsession to create as much meat as possible in the shortest amount of time and with the least costs, leads to as many as 90 percent of broiler chickens effectively unable to walk. The bones and muscles in their legs cannot support the weight of their bodies.¹³

⁹ Foer, *ibid.*, p. 47, “... Japan has the world’s highest battery cage unit, with cages stacked eighteen tiers high—in windowless sheds.”

¹⁰ Foer, *ibid.*, p. 60.

¹¹ Forced molting to shock the body of fowl into egg production, is a common Farm Factory procedure that is discussed in Halakhah. Some permit it (see *Nefesh Kol Hai* 121n12) and others prohibit it (see *Nefesh Kol Hai* 121n13).

¹² See reference to www.onegreenplanet.org.

¹³ See reference to www.onegreenplanet.org.

From 1935 to 1995, the average weight of broilers increased by 65 percent while their feed allotment dropped 57 percent.¹⁴

Baby chickens. Methods of killing the unwanted 250 million male chicks include: being thrown into a pile to starve or suffocate; being sucked alive through pipes onto an electrified kill pipe; being ground up alive in a macerator; or gassed.¹⁵

Cattle: tail docking. 82% of dairies in the United States practice tail docking (removing the tail of cattle) by cutting, burning, or constricting the tail with an elastic band. This practice causes pain, stress, and sometimes infection. It has been outlawed in a number of countries, including New Zealand. In the United States, however, only the State of California has made tail docking illegal.¹⁶

Cattle: for milk (dairy farming). Like other mammals, cows lactate only after giving birth. To maximize production of milk, cows are kept perpetually pregnant. Once the cow gives birth, the calf is taken away. Cows do have feelings and they experience pain. A calf wants its mother, and the mother wants to care for her baby.

Cattle: veal. Veal is the meat of male calves, offspring of dairy breed that are separated from their mothers and slaughtered at a tender age. Veal farms are notorious for their cruelty. Calves raised for meat are often subjected, without the benefit of painkillers, to inhumane treatment that includes forced feedings, branding, castration, and removal of horns.

Veal calves are often forced to wear heavy chains to keep them from becoming overactive in their stalls. The calves are also kept in near or total darkness. Anemia is forced upon them to keep their flesh pale and attractive.¹⁷

Health problems associated with Factory Farming

In 2011, more than 80 percent of all antibiotics produced in the United States was fed to livestock. Some of these drugs were necessary to keep animals healthy due to their living near one another's waste. Most antibiotics, however, are administered at low levels to trigger rapid growth. This

¹⁴ Foer, *ibid.*, pp. 106-7.

¹⁵ See Foer, *ibid.* p. 48.

¹⁶ See reference to www.HuffingtonPost.com above.

¹⁷ See reference to www.HuffingtonPost.com above.

massive use of antibiotics contributes to the rise of superbugs—deadly bacteria resistant to antibiotics.¹⁸

A typical supermarket chicken today contains more than twice the fat, and about a third less protein than forty years ago.¹⁹ A daily diet of chicken is thus more detrimental to one's health than it used to be.

III. Causing pain to animals: Halakhic overview²⁰

Halakhah prohibits inflicting gratuitous pain on animals. *Ḥazal* refer to this as *צער בעלי חיים* (*tza'ar ba'alei hayyim*, hereafter “ZBH”), which most *poskim* deem a Biblical prohibition.^{21,22} For example, Rambam sees this as implicit in the rebuke to Balaam (Numbers 22:32) for striking his ass.²³

On the other hand, Halakhah permits slaughtering animals for human consumption. It also permits causing them pain in the process of obtaining a benefit from them. ReMA writes:

There is no prohibition of ZBH on anything needed for health or other purposes. Therefore, it is permissible to pluck feathers from live geese and we need not be concerned that we are in violation of ZBH. Nevertheless, the world refrains [from doing so] because it is cruelty.²⁴

Arukh ha-Shulhan writes similarly:

Therefore, there is no prohibition of ZBH if it needed for health or for other permitted necessities. Therefore, it is permissible to pluck

¹⁸ See reference to www.HuffingtonPost.com above.

¹⁹ See reference to www.dosomething.org above.

²⁰ *Nefesh Kol Hai* (Hebrew) by Yitzhak Eliyahu Shtisman (Jerusalem, 2002) is an excellent source book for Halakhot regarding ZBH.

²¹ בש"ס איכא פלוגתא בכמה מקומות אי איסור צער בעלי חיים הוא מן התורה או אינו אסור אלא מדרבנן (יעוין בב"מ ד' ל"ב, וכן במס' שבת ד' קכח ע"ב ודף קנ"ב ע"ב ועוד) ולהלכה דעת רוב הפוסקים דצער בע"ח דאורייתא (עיינן שד"ח מע' צ' כלל א' עיי"ש) וכך נפסק ברמ"א בחו"מ סי' רע"ב סעי' ט' דצער בעלי חיים דאורייתא, ובסמ"ע שם, וכן בביאור הגר"א סי' קי"א, עיי"ש, ויעוין גם בפרמ"ג בפתחה לה' שחיטה בסופה ע"ש (שו"ת ציץ אליעזר חלק יד סימן ס"ח).

²² וי"א לפרוק חייב אפילו אין העובד כוכבים שם, משום צער בעלי חיים דהוי דאורייתא, וכן בכל מקום דפטור לפרוק מ"מ משום צער בע"ח מיהו חייב (רמ"א חו"מ ערב:ט).

²³ וההשקפה החמישית... אבל אמרם (שבת קכח ב) צער בעלי חיים דאורייתא ממה שנאמר (במדבר כב:לב) על מה הכית את אתנך הנה זה על דרך הבאת השלמות לנו כדי שלא נתנהג במדות האכזריות, ולא נצער לבטלה ללא תועלת, אלא נפעל בעדינות ורחמנות ואפילו באישי איזה בעל חי שיהיה זולתי בעת הצורך, כי תאוה נפשך לאכל בשר, לא שנשחט על דרך האכזריות או השחוק (מורה הנבוכים ג:יז). ועיינן בביאור הגר"א חו"מ ער"ב:יא דפ' הרמב"ם דצער בעלי חיים דאורייתא.

²⁴ רמ"א שלחן ערוך, אבן העזר ה:יד.

feathers from live geese. Nevertheless, the world refrains [from doing so] because it is cruelty and it is not proper behavior for the descendants of Abraham. One who does this shows his bad traits.²⁵

Both of the above sources say that it is permissible to inflict pain on animals when it provides a human benefit. Both also say that it is permissible to pluck feathers from live geese, but nevertheless one should refrain from doing so because it is cruel. *Arukh ha-Shulhan* goes further and declares emphatically that it is improper for a Jew to do this.

Other sources are more stringent than the above and warn against inflicting undue pain on animals, even when doing so serves some human need. Let us review some of these sources.

IV. Sensitivity in the treatment of animals²⁶

We begin by quoting R. Yehudah he-Hasid from his *Sefer Ḥasidim*.

R. Yehudah he-Hasid:

Jews take what is written in *Sefer Ḥasidim* very seriously. For example, when a person buys a home and discovers a fruit tree in his backyard he goes into a panic because R. Yehudah he-Hasid in his will, as printed in *Sefer Ḥasidim*, states unequivocally, “A tree which produces fruit may not be cut down” (p. 24, no. 45). Similarly, when one does construction on his home and needs to seal up a window, he knows (as does his contractor) that he must leave a small hole in its place (p. 16, no. 20). The following admonitions from R. Yehudah he-Hasid, on not causing undue pain to animals, should be taken with the same seriousness.

If he causes pain to an animal for naught—putting upon it a weight that it cannot carry, for example, or striking it when it is unable to walk, he will be judged for causing pain to an animal; so too those who pull the ears of cats to hear them scream are committing a sin. Our Sages have also said, “*In that day—declares the Lord—I will strike every horse with panic and its rider with madness*” (Zechariah 12:4), The Holy One, Blessed is He, will take revenge on the riders for mistreating their horses, kicking them with the spurs on their boots. (*Sefer Ḥasidim* p. 104, sec. 44:19-22)

²⁵ ערוך השלחן, אבן העזר ה:כט.

²⁶ A number of *poskim* believe that animals suffer emotional pain as well. See, e.g., R. Ephraim Zalman Margolioth, *Beit Efraim, Yoreh De'ab*, 26; R. Zalman Sorotzkin, *Oẓnayim la-Torah, Vayikra* 14:6; *Arukh ha-Shulhan, Hilkehot Tereifot* 36: 70; Rambam, *Moreh* 3:48.

Notice in the above example that although it would be perfectly natural and permissible to strike a horse to increase its riding speed, nonetheless, if one does this using the spurs on his heels, then God himself, so to speak, takes revenge upon him.

If one cuts off the tail of an animal and thinks he has caused it no pain, he has nevertheless caused the animal pain because it can no longer chase away the flies on its back. (*Sefer Hasidim* p. 384, sec. 589)²⁷

Notice the above prohibition of causing even a relatively minor discomfort—rendering the animal unable to shoo away flies.

If he causes unnecessary pain to an animal—for example, by placing upon it a load heavier than it can bear, or by striking the animal to make it walk when it cannot walk, he will be judged for this, for ZBH is a biblical prohibition. (*Sefer Hasidim* p. 425, sec. 666)

A righteous person knows not to bother his animal when it is sick. Similarly, if its time to give birth has already come he should not bother it. (*Sefer Hasidim* p. 426, sec. 667)

For this you [Balaam] were punished. [The ass] was trained to walk, and when it would not do so, you should have suspected that it might be sick. You therefore committed a sin by disturbing it. So too at night when an animal is sound asleep, snoring, and does not wish to rise, you must not hit it to break its will. (*Sefer Hasidim* p. 426, sec. 668)

When you enter a house and you wish to chase away a dog that does not bite, you should use a small stick, and not throw boiling water at it, neither should you hit it with a large stick... (*Sefer Hasidim* p. 427, sec. 670)

The last item above is a clear indication that one ought to cause the least amount of pain possible, even when dealing with a legitimate need.

R. Samson Raphael Hirsch:

There are probably no creatures that more require the protective Divine word against the presumption of man than the animals, which, like man, have sensations and instincts, but whose body and powers are nevertheless subservient to man. In relation to them man so easily forgets that injured animal muscle twitches just like human muscle, that the maltreated nerves of an animal sicken like human nerves,

²⁷ We will see later that the *Terumat ha-Desben* permits this.

that the animal being is just as sensitive to cuts, blows and beating as man. (*Horeb*, p. 292, 60:415)

Behold! Here you are faced with HaShem's teaching, which obliges you not only to refrain from inflicting unnecessary pain on any animal, but to help and, when you can, to lessen the pain whenever you see an animal suffering even through no fault of yours. As the oral law explains, to release an animal of its burden is not only a duty of love toward the distressed owner of the animal, but above all a duty towards the suffering animal... The law also sets a suffering animal on the same level as a non-seriously ill person as far as *melachoth* on Sabbath and Yom Tov are concerned, in that *melachoth derabbanan* are permitted in order to help them (O. Ch. 305:19 and 20). It goes without saying, therefore, that you may hurt the animal and strain its powers only for sensible human purposes, and then only in the least painful manner. The animal that serves you must not be burdened with excessive loads; you must not make it work constantly without rest, or deny it the fodder it needs. (*Horeb*, p. 292-3, 60:416)

Sefer ha-Hinnukh:

It has also been said that the reason animals are slaughtered at the neck, and with a knife that has been meticulously checked [for perfect sharpness], is that the animal must not be unduly pained. For the Torah allows man, due to his [elevated] stature, to eat from them and to use them for [the fulfillment of] all his needs, but not to cause them needless pain.

All of the above offers a sharp rebuke to those who would cause undue or unnecessary pain to animals, even for the fulfillment of a personal need.²⁸

We now turn our attention to two *teshuvot* that address modern Factory Farm practices.

V. Two *Teshuvot* on Factory Farm practices

We begin with a *teshuvah* of R. Moshe Feinstein, *Iggerot Mosheh*, on the then current (June 1982) practices in the production of veal.

²⁸ במכתב מהרב דניאל אשר קליינמאן, שליט"א, כ' מרחשון, תשע"ח כתב "ולכן נראה דצ"ל, דבנוסף לב' גדרים – היינו צער קטן דמותר מה"ת, וצער גדול דאסור מן התורה אבל מותר במקום צורך האדם – איכא נמי גדר צער גדול דלאו אורחיה בו כלל ואינו מדרך בנ"א, וצער כזה הוא בגדר אכזריות מופרזת, ובוזא לא שרינגן אפי' במקום צורך האדם..."

R. Moshe Feinstein, *Iggerot Mosheh*

R. Moshe Feinstein writes that the then current method of producing veal is considered ZBH. When creating veal, the extraordinary measures performed on the animal do not even serve any legitimate purpose. It whitens the meat which serves only to fool people into believing that it is tastier and healthier.²⁹

Within his *teshuvah* R. Moshe poses the following question: Suppose a non-Jew approaches a Jewish farmer and tells him that he (the non-Jew) will pay the Jewish farmer to let him beat the Jewish farmer's animal. Is this permitted, since it brings financial gain to the owner? R. Moshe says no, it is prohibited. The full text is illuminating:

והנה לאלו שעושים כן ודאי איסור דצער בע"ח דאף שהותר לצורך האדם הוא כשאכא צורך, כהא דלשוחטם לאכילה ולעבוד בהם לחרישה ולהובלת משאות וכדומה. אבל לא לצערם בעלמא שזה אסור אף אם יהיה לאחד הרוחה בזה, כגון שנכרי אחד רוצה להרוג או לחבל באיזו בהמה שכעס עליה שודאי אסור אף שמשלם לו שכר בעד מעשה הרע הזה דלהרוחה שמותר הוא לאכילה אף של אחרים ואף של נכרים. אבל להרוג ולחבל בשביל הרצון דאיזה רשע אחד אסור אף שהוא עושה להרוחה דיליה, מחמת שמשלם לו בעד האכזריות שאמר לו לעשות, דבשביל מה שאירע לאחד שיש לו הרוחה מהריגת וחבלה בע"ח אסור אף שהוא להרוחה לצורך האדם אלא דוקא בדבר שדרכן דאינשי בכך.

Those who do this [raise veal] surely transgress the prohibition of ZBH. For although [causing pain to an animal] is permissible when done for the fulfillment of a human need, this applies only to a need such as slaughtering for consumption, or working with the animal to plow or to carry a burden, etc. But not merely to cause the animal pain [for its own sake], for this is prohibited even when one obtains a profit. For example, if a non-Jew wishes to kill or maim an animal because of his anger toward it, surely this is prohibited even if he pays the owner of the animal, for this is an evil deed. The profit for which it is permissible [to cause pain to an animal] is for that of eating, even if it is for someone else, and even if it is for a non-Jew. But to kill or maim in order to fulfill the desire of an evil person is prohibited even when [the Jew] does it for his own profit, in the form of payment to be received for the cruelty that [the non-Jew] would have him inflict. Although he will derive profit from killing or maiming the living creature, it is prohibited. [One may cause pain to an

²⁹ אבל לא בדבר שהוא רק לרמות ולהטות את האינשי שיאכילום בדבר שגם לאינשי אינו כלום ורק לרמותם להאינשי שמזה שיראו מראה הבשר שהוא לבן ולא במראה אודם קצת שישעו מזה שהוא בשר טוב יותר לבריאות ולהנאה וישלמו בשביל זה יותר (אגרות משה אבן העזר חלק רביעי סימן צב דף קסד).

animal and profit thereby] only when he does so in a manner that is consistent with normal human behavior.

According to the above *teshuvah* of R. Moshe Feinstein, there are circumstances where causing pain to animals is forbidden even when there is an economic benefit.

R. Shmuel Kamenetsky

R. Shmuel Kamenetsky was asked about the treatment of animals on Factory Farms as presented in an earlier draft of this article. The full Hebrew text of his response appears at the end of this article. Following is a free translation of his concluding paragraph (part 5):

Nevertheless, concerning actual practice, it appears that the manner in which animals are treated as discussed is surely not proper, even according to the opinion of *Terumat ha-Desben* and ReMA. As mentioned in *Arukh ha-Shulhan* it is not proper for the descendants of Abraham to do so, whereas according to *Iggerot Mosheh* there is even a possibility of an actual violation. But this applies [only] to raising chickens, which surely entails cruelty even according to *Terumat ha-Desben*, and ReMA, while according to the understanding of *Iggerot Moshe* we must surely be concerned that there is an actual violation of ZBH, given that there is not much purpose in the pain caused in fattening the chickens as practiced. But as for buying eggs and the flesh of chickens that were raised in the manner described above, it appears from the *Iggerot Mosheh* that there is no possibility [of a violation], for there is no reinforcement of cruel habits, and the purchaser has no part in the ZBH, nor is there any fear of being an accessory [to ZBH].

R. Kamenetsky states clearly that although the practices of Factory Farming may constitute ZBH, nevertheless, we may eat the products from such animals. He explains that by purchasing these products we are neither an accessory to ZBH nor are we reinforcing cruelty within ourselves. In an earlier part of his *teshuvah* (part 4) R. Kamenetsky asks: *Terumat ha-Desben* rules that it is permissible to cause pain to animals in the process of deriving a human benefit.³⁰ Why then does he conclude that, nevertheless, we do not do this? R. Kamenetsky explains that the prohibition of ZBH is to implant within us the trait of compassion and to prevent us

³⁰ *Terumat ha-Desben* (2:105) addresses whether one may: trim the tongue of a bird to improve its speech; cut the ears or the tail of a dog to beautify it; or pluck a feather from a live goose to fashion a quill for writing.

from becoming cruel. By causing pain to animals we reinforce within ourselves the trait of cruelty.

Rambam similarly writes (*Moreh* 3:17 cited above) that the prohibition of ZBH is to help perfect us, by accustoming us to act compassionately and not cruelly. This follows from Rambam's understanding (*MT, Hilkhot Dei'ot* 1:5,6) that we are obligated to emulate the ways of God (*imitatio Dei*): Just as He is compassionate so too must we be compassionate.

VI. How can we be sure that the food we consume comes from animals that were raised humanely?

We have just mentioned that as Jews we are commanded to imitate the ways of God. Just as he is compassionate so too must we be compassionate. Many Factory Farm practices are the polar-opposite of this ideal. What is the solution for an observant Jew who wishes to imitate the ways of God and reinforce within himself—by the type of food he purchases and consumes—his obligation to act compassionately? Perhaps the following is a solution.

Family (Free) Farming as an alternative to Factory Farming

Free Farming is similar to Family Farming—the way farming was done for millennia before the advent of Factory Farms. These farms are relatively small, and they are sustainable (i.e., they meet society's food needs in the present without compromising the ability of future generations to meet their own needs).³¹ They treat animals humanely. They keep them

³¹ “(1) Sustainable farming ... has grown into a business worth some \$7.3 billion a year in the European Union and around \$15.6 billion worldwide. (2) Organic farming became one of the fastest growing segments of U.S. agriculture during the 1990's. Certified organic cropland more than doubled from 1992 to 1997.... (3) The number of certified organic milk cows in the U.S. nearly tripled between 1992 and 1994. (4) The United States had 537,826 certified organic layer hens in 1997, up sharply from 47,700 in 1994. (5) Community Supported Agriculture connects local farmers with consumers; local farms grow food specifically for CSA members. As of January 1999, there were over 1000 Community Supported Agriculture farms across the US and Canada. (6) Responsible management of the natural resources of soil, water, and wildlife on the 60 percent of all U.S. farms less than 180 acres in size, produces significant environmental benefits for society. (7) The smallest U.S. farms, those of 27 acres or less, have more than ten times greater dollar output per acre than larger farms. (8) In farming communities dominated by large corporate farms, nearby towns died off. Where family farms predominated, there were more local businesses, paved streets and sidewalks, schools, parks, churches, clubs, and newspapers, better services,

safe and healthy, and they provide a certain amount of freedom to their animals, to roam and to do what animals do naturally.

How can we, the Jewish community, be assured that we are purchasing animal products from animals that were raised humanely? Unfortunately, packaging labels are not always helpful. Food label descriptions such as “cage free,” “free range,” and “organic” can be misleading as there are no regulations defining when these terms may be used. In fact, public relation firms have been known to help companies “greenwash” their image, making them appear environmentally responsible and humane—when they are not.

There is, however, a solution. While the USDA does not oversee how farm animals are raised, its website provides links to various non-governmental organizations—some of which are shown below—that do certify that animals are raised humanely.³²

Certification Seal	Name, Products Certified, Website	Certification, Purpose
	United Egg Producers Eggs. uepcertified.com	Certifies that the farm meets certain requirements including the Animal Husbandry Guidelines for US Egg Laying Flocks.
	Animal Welfare Approved Meat and dairy products. animalwelfareapproved.us	Certifies family farmers raising animals according to the highest animal welfare standards, outdoors on pasture or range.
	American Humane Certified Dairy, meat and eggs www.humaneheartland.org	Healthy, comfortable, well-nourished, safe, able to express normal behavior, and free from pain, fear, and distress.
	Food Alliance Crop and livestock. foodalliance.org	A third-party certification program for sustainability, healthy and humane treatment of animals.

higher employment, and more civic participation. (9) In the United States, small farmers devote 17% of their area to woodlands, compared to only 5% on large farms.” See the reference to www.organicconsumers.org above.

See https://www.organicconsumers.org/old_articles/Toxic/factoryfarm.php.

³² See <https://www.nal.usda.gov/awic/certification-programs>.

	<p>Humane Farm Animal Care Meat, poultry, egg and dairy. certifiedhumane.org</p>	<p>Inspection and certification for meat, poultry, egg and dairy products from animals raised to humane care standards.</p>
	<p>Global Animal Partnership Meat and poultry. globalanimalpartnership.org</p>	<p>5-Step Animal Welfare Rating Standards for farmers, ranchers, packers, and feeders.</p>

The following are examples of products certified both as kosher and as coming from humanely raised animals:

Eggs: Alderfer: OU, Certified Humane
Nature's Yoke: OU, Certified Humane

Milk: Redwood Hill Farm: K-ORC, Certified Humane

Notice, however, that meat and poultry are absent from the above short list.

VII. Why is there no kosher meat or poultry that is certified humane by any of the above agencies?

In the previous section we identified egg and milk products that are certified as both kosher and humane. We were not able to identify a single meat or poultry product that is certified as both kosher and humane by any of the above organizations. Why is this?

The answer surprised us. It is not that animal farms run by Jews have made no attempt to treat their animals humanely. On the contrary—in the course of researching this paper we came across Jewish owned farms which take pride in their humane treatment of the animals they raise. We also came across a number of slaughterhouses that purchase for slaughter only animals that were raised humanely. Examples of kosher companies claiming that they exercise humane treatment include (we have not personally verified their claims, nor should the list be taken as exhaustive): Grow and Behold,³³ and KOL Foods.³⁴ Why do none of their products contain any of the above humane certifications? The answer unnerved us: the protocols of the above certifying agencies demand that for a farm or slaughterhouse to receive their certification, the animals must be stunned

³³ Grow and Behold's protocols call for a high level of humane treatment. See <https://www.growandbehold.com/index.php?page=Animals>.

³⁴ Although KOL Foods is not certified by any of the sites mentioned on the USDA certification page, they are certified by AGA, <http://www.americangrassfed.org/>

before they are slaughtered.³⁵ According to Jewish law, however, this is not permitted. Halakhah specifies that an animal may not be stunned before it is slaughtered. We seem to have reached a dead-end.

To our surprise, we learned that Humane Farm Animal Care's protocols for treating chickens humanely contain an exception for Halal (lawful in Islamic law) chicken. To accommodate Halal slaughter their protocol permits chicken to be stunned within 5 seconds **after** it is slaughtered.³⁶ When we asked Humane Farm Animal Care if this same exception would apply to kosher slaughter, they replied in the affirmative. Nevertheless, this is not an option. There are Halakhic problems with stunning an animal, even when it is done after slaughter.³⁷

Given what we now know, the Jewish community has two options for obtaining humane certification for its meat and poultry products:

1. In Israel H̄ai Bari (חי ברִיא) certifies kosher meat as humanely raised.³⁸ The Jewish community in the United States can similarly create an organization to certify meat products in our country.³⁹
2. Organizations that certify food as kosher can offer an additional certification testifying that the product comes from a humanely raised animal.

³⁵ For Animal Welfare Approved see, <https://animalwelfareapproved.us/standards/slaughter-poultry/>.
For American Humane Certified see, www.humaneheartland.org/index.php?option=com_content&view=article&id=3&Itemid=106&jsmallfib=1&dir=JSROOT/Animal+Welfare+Full+Standards+%2B+Supplements&download_file=JSROOT/Animal+Welfare+Full+Standards+%2B+Supplements/Beef+Cattle+Full+Standards+.pdf

³⁶ See <http://certifiedhumane.org/wp-content/uploads/2015/11/Std14.Chickens.1A.pdf>, p. 32, "Halal Slaughter Exceptions."

³⁷ See R. Daniel Asher Kleinman, www.Hakirah.org/StunningAfterSlaughter.pdf.

³⁸ <http://haibari.co.il/en/>.

³⁹ The Conservative movement created *Magen Tzedek*, to certify that "... kosher food products have been produced in keeping with exemplary Jewish ethics in the area of labor concerns, animal welfare, environmental impact, consumer issues and corporate integrity." To date their website (magentzedek.org) does not list any company or product that has earned their certification. For Orthodox objections to *Magen Tzedek* see Seth Berkman, "Magen Tzedek, Ethical Kosher Seal, Stalled Amid Orthodox Opposition," *Forward*, May 20, 2013, <http://forward.com/news/176814/magen-tzedek-ethical-kosher-seal-stalled-amid-orth/>.

There is no immediate solution for how to purchase kosher meat and poultry certified humane. Nonetheless, it would be a mistake to ignore the issue. Our community will soon reach a tipping point of awareness, as Jewish consumers become more knowledgeable about the reality of Factory Farming. Some observant Jews have already chosen to express their revulsion of Factory Farm practices by becoming vegetarians or even vegans. It behooves us, as an *'am segulah* [God's treasured people], to be a guiding light unto the nations, to emulate God's ways by being compassionate to all of His creations. "As for the dictum, *'[The prohibition of causing] suffering to animals is [an injunction to be found] in the Torah...*' it is set down with a view to perfecting us so that we should not acquire moral habits of cruelty, nor inflict pain gratuitously without any utility. Rather, we should always be kind and merciful of intent, even with a chance animal individual, except in case of need—*'Because thy soul desireth to eat flesh.'* For we must not kill out of cruelty or for sport" (*Moreh* 3:17, Pines edition, pp. 473-4).⁴⁰ 

⁴⁰ There could possibly be another long-term alternative to Factory Farming. In August 2017 it was announced by Memphis Meats, a post-livestock meat producer, that they received \$17 million in donations from Bill Gates, Richard Branson and others, to advance the technology for making meat from self-producing animal cells. In response to a question from Bloomberg News, Branson said "I believe that in 30 years or so we will no longer need to kill any animals and that all meat will either be clean or plant-based, taste the same and also be much healthier for everyone." See, <https://www.bloomberg.com/news/articles/2017-08-23/cargill-bill-gates-bet-on-startup-making-meat-without-slaughter>. For a halakhic perspective on synthetically produced meat see, in this volume, "Parve Cloned Hamburgers: Health and Halakhic Considerations" by John D. Loike, Ira Bedzow and Moshe D. Tendler.

בעזה"י אור לט' כסלו תשע"ח

כבוד ידידי כתבא וספרא רבא, מעמודי שכונתינו, הרה"ג צבי שמואל זלצר שליט"א, בן להגאון הר"ר ירחמיאל זצ"ל מח"ס נר למאה,

שלו וברכת כל טוב, יקרתו הגיעני בנדון צעב"ח באופני גידול עופות וכדו' בשביל הטלת ביצים או פיטום וכדו', ונעניתי לבקשתו לשאול את פי מו"ר מרן הגאון רבי שמואל קמנצקי שליט"א מהו דעתו בנדון הנ"ל, ונשאתי ונתתי עמו בארוכה, והנני מעתיק מה ששמעתי ממנו בזה, ומה שכתבתי בשמו הי' למראה עיניו, ובזה החלי:

א', בהא דכתב בשו"ת אג"מ אה"ע ח"ד סי' צב דצעב"ח שהותר לצרכו של אדם הוא דוקא כשהוא לצורך אכילה או חרישה והובלת משאות וכדו' ולא לצורך רווח דאיזה אינשי בעלמא כשאין בו תועלת אכילה וכדו' בבשר הבהמה אף כשמתייפה הבשר ע"י כך, דמ"מ לא הותר לצער את הבהמה להאכילה דברים שאין לה הנאה מהן שהיא מצטערת באכילה וגם הם נחלות וסובלות יסורים מהחולי - לכאו' יש לעיין ממ"ש התה"ד סי' קה שדן בדבר ג' גווני דצעב"ח - אם מותר למרוט נוצות האווזים מחיים, אם מותר לחתוך לשון העוף כדי שידבר, ואם מותר לחתוך אזנים וזנב מכלב כדי לייפותו, ומסקנתו התם דבכל הנך גווני שרי מדינא כיון שהוא לצורך האדם, ורק שהעולם נמנעים משום אכזריות. והנה לכאו' חיתוך אזני הכלב או זנבו כדי לייפותו לא גרע מהאכלת העגלים דברים שיש בהם צער כדי לייפות את בשרם, ולא מסתבר שהי' דרכן של הרבה בנ"א בחיתוך אזני הכלב וזנבו בכדי לייפותו, וגם חיתוך לשון העוף כדי שידבר הוא צער גדול ואינו דבר הרגיל כ"כ אצל בנ"א ומסתבר דלא עדיף מרווח ייפוי בשר הבהמה כשאיכא רווח לבעל הבהמה בכך, ואעפ"כ לא חילק התה"ד בין הגוונים ונקט דשרי כיון דמקרי לצורך האדם. וא"כ גם בנדון האג"מ, לכאו' הי' נראה לדעת התה"ד שרי, ואף דאיכא צער גדול ואין בו תועלת של ממש בהשמנת בשר העגלים, אבל כיון שיש בו רווח שמתייפה הבשר בכך לכאו' שרי לדעת התה"ד.

ואיברא שיש מקום לחלק דנדון התה"ד חשיב דבר הרגיל יותר מתהליך פיטום העגלים, די"ל כיון שהוא צער חד-פעמי ודמי כעין מעשה ניתוח שגם בנ"א רגילין בו אף בשביל ייפוי בעלמא וא"כ אפשר דחשיב טפי דבר הרגיל מתהליך פיטום העגלים שנזכר באג"מ, באופן שאפשר שגם להאג"מ שרי למיעבד הכי וי"ל דליכא פלוגתא בינו להתה"ד, אבל הוא דוחק, כי משמעות האג"מ שבא להגדיר גדר צורך שמחמתו הותר לצער בע"ח, ולפי הגדרתו לכאו' אף נדון התה"ד אינו בא לכלל צורך. ובלא"ה בודאי קשה למה לא העיר האג"מ כלום מדברי התה"ד ורמ"א אה"ע סי' ה, דעכ"פ הו"ל להביא דבריהם ולפרש למה אין בזה סתירה לדבריו. ולכן יותר נוטה שהאג"מ לא ס"ל כדברי התה"ד וגם לא ס"ל כרמ"א שהעתיק דברי התה"ד, ואפשר שלא הביא דבריהם משום דלא נראה לו כדבריהם ולא רצה לחלוק עליהם בהדיא, וכבר מצינו אצל הבית יוסף שכשחולק לפעמים על דברי הראשונים הריהו עושה כמעלים וכמבליע ואינו כותב כן בהדיא, ונראה שגם כונת האג"מ בכה"ג כן הוא.

ב', כן יש להעיר על הגאון שבות יעקב ח"ב סי' קי, שדן אי שרי לשחוט את העוף ע"י שחוטכין מתחילה העור ואח"כ נוטלין ביד הושט וקנה ושוחטין אותו, אי אריך למיעבד הכי, ומסיק שיש בו חשש איסור משום צעב"ח אם חותך העור תחילה ואח"כ תופס בסימנים וכתב "לא נעלם מאתי מ"ש בפסקי מהרא"י סי' קה דהיכא דיש לו ריוח לא חיישינן לצעב"ח וכ"פ רמ"א בשו"ע אה"ע סו"ס ה, מ"מ העולם נמנעים משום אכזריות יעווי"ש, מ"מ נ"ל פשוט דאף מהרא"י לא קאמר אלא דוקא בדבר המצוי כגון מריטת נוצות וכה"ג משא"כ מלתא דלא שכיחא ודאי אסור משום צעב"ח, וכדמשמע מהאי עובדא דר"פ בן יאיר בפ"ק

דחולין (ז:): עקרנה להו איכא צעב"ח, וכן משמע קצת בדברי מהרא"י שם" ע"כ, ודבריו תמוהים לכאן, וכי מצוי ושכיח להתוך אזני הכלב וזנבו כדי לייפותו, וגם חיתוך לשון העוף כדי שידבר לא נראה שהוא דבר הרגיל, והשבות יעקב הזכיר רק גזון מריטת נוצות שנזכר בתה"ד שזה ודאי י"ל שהוא דבר הרגיל, אבל התה"ד הא הזכיר עוד ב' נדונים שאינם דברים השכיחים כלל, ואעפ"כ כתב דשרי, והוא דלא כדברי השבות יעקב לכאן וצ"ע במה שכותב שדבריו אתיין שפיר אליבא דתה"ד, וצ"ע. ועכ"פ סתימת התה"ד משמע דפליג על האג"מ ולכאן לדעת התה"ד נראה דלייפות את הבשר מקרי שפיר צורך שיש בו כדי להתיר צעב"ח.

ג', וכל זה הוא מדינא, אבל הא מיהת דודאי שייכא בכה"ג מה שמסיק התה"ד שהעולם נמנעים משום אכזריות, וגם ברמ"א משמע שסובר למעשה דיותר טוב להמנע משום אכזריות, וא"כ בנדון האג"מ בודאי יש להמנע משום אכזריות אף אי שרי מדינא, וגם בנדון"ד בודאי יש להמנע מלגדלם באופן זה משום אכזריות אפי' לדעת התה"ד ורמ"א.

ד', ובעיקר דברי התה"ד ורמ"א שיותר טוב להמנע משום אכזריות לכאן צריך ביאור היכן מצינו גדר כזה שיהא דבר המותר מדינא לכולי עלמא ומ"מ העולם נמנעים משום שלדעתם יש בו גדר אכזריות, ונראה דסבירא להו דיסוד איסור צעב"ח אינו משום דחס רחמנא על הבעלי חיים עצמם, אלא יסודו כדי להרגיל את בני"ב במדת הרחמנות ולשומרם שלא יקנו מדת האכזריות, וכן משמע קצת בספר החנוך מצוה תקצו דאיסור צעב"ח אינו מצד דחס רחמנא על הבע"ח אלא להרגיל את בני"ב במדת הרחמנות ושלא יתרגלו באכזריות, ומסתברא שזהו טעמי' דתה"ד דס"ל דכשיש בו צורך האדם ליכא איסור צעב"ח - דכל שעושה בשביל צורך האדם ואינו עושה בשביל אכזריות א"כ אין מרגיל עצמו במדת האכזריות ועל כן לית לן בה [וכ"ה בספר יוסף דעת להגאון בעל שו"מ (יו"ד סי' שמח ס"ב) יעווי"ש שהאריך]. ועכ"פ לפ"ז אתי שפיר דאף היכא דמדינא שרי, וכגון כשהוא לצורך האדם שהתורה לא חששה שעיי"ז יתרגל למדת האכזריות, מ"מ העולם נמנעים מחשש שמא סו"ס עיי"ז יתרגלו באכזריות ויקנו מדת האכזריות, זהו הנראה בביאור דברי התה"ד ורמ"א.

ה', עכ"פ למעשה נראה שבודאי אין נכון מה שנוהגים מגדלי התרנגולים לגדלם באופן הנ"ל אף לדעת התה"ד ורמ"א וכפי שהזכיר בערוה"ש שאין ראוי לזרע אברהם לעשות כן, ולדעת האג"מ יתכן שיש בזה חשש איסור אף מדינא. ואמנם זהו לגבי גידול התרנגולות שבודאי יש בו אכזריות אף לתה"ד ורמ"א, ולדעת האג"מ בודאי יש לחוש בו משום איסור צעב"ח אף מדינא כשאין כ"כ תועלת בהשמנת התרנגולים ע"י דרכי הצער שנוהגים בהם, אבל לענין לקנות ביצים ובשר תרנגולים שנתגדלו באופן הנ"ל משמעות האג"מ שאין חשש, כי עיי"ז אין שום הרגל למדת אכזריות ואין לקונה שום חלק בצער בע"ח, ואין בו משום חשש מסייע, ע"כ שמעתי ממו"ר הגרש"ק שליט"א.

ואסיים שוב בידידות ובברכה מרובה,

ידידו הדו"ש בהדר"כ,

דניאל אשר הכהן קליינמאן