

This paper was submitted to the CJLS as a dissent to Rabbi Pamela Barmash's responsum, "Veal Calves"

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A Response to Rabbi Pamela Barmash's Teshuva on Veal

By Rabbi Paul Plotkin

Rabbi Barmash and I have "spurred" at the last two Law Committee meetings, on her Teshuva called "Veal Calves".

Let me begin by making it very clear that there is no disagreement that egregious inhumane raising of veal is clearly a violation of Tzaar Baalei Chayim; and though we might debate the fine points of whether or not eating veal is to be considered under the category of tzorech adam or not, it is irrelevant to the issue that, if animals are raised in a grossly inhumane way, this is a violation of all that we stand for.

As the paper evolves though, we find the emergence and supremacy of a concept called, Achzariyut, in that the supremacy of this principle leads to her ruling forbidding the raising, purchasing, selling or consuming veal, unless the veal is raised under "humane standards along the lines of the European Union or the Humane Farm Animal Care."

The conclusion defines "humane standards" as including sufficient space for calves to lie down and stand up, turn around, groom themselves; proper nutrition and a mixed diet with sufficient iron, dry clean bedding, and limited isolation of calves.

The standard that Rabbi Barmash maintains is the highest standard for humane veal raising currently in effect. The problem I have is that there are other standards that exist, and Rabbi Barmash is basically saying, if the higher standard is not met, we are forbidden to consume the animal.

I would like to offer, for the purposes of clarification, an analogy to explain what her Teshuvah is doing. Her teshuvah is analogous to a "glatt kosher standard" as it applies to the issue of raising animals. I would argue in this analogy that there exists other standards that would be called "kosher" that exist and are significant improvements over the most egregious images we have of raising veal.

It has long been the policy of the Law Committee to try to make available appropriately kosher food to as wide a market as possible; and it was with that in mind that we attempted to work with the new Rav Hamachshir of Hebrew National, to provide a widely distributed, non-glatt, but totally kosher hotdog, throughout the country.

We understood that it was in our interest in promoting kashrut to our population, to make sure that we had sources of supply that were widely available and at a reasonable price. Had we insisted only on a glatt kosher standard, the product would have been more expensive, and more limited in distribution, and many of our members would have not been able to attain or afford the new product.

Our concern was that we made available a product that met a demonstratively kosher standard notwithstanding that for those individuals who wished to take on additional stringencies and eat only glatt kosher they were free to do so; but we wanted to make sure that the kosher standard was upheld and maintained.

Rabbi Barmash's paper wishes to offer only the "glatt" standard as formulated by the HFAC; whereas I would argue that even the AVA standard which represents the growers, is still a significant improvement and an attainable one long term in the market place.

The above analogy is quite apt as Rabbi Barmash argues continually that *achzariyut* is in fact a *chumra*, when she writes on page 14, "we can conclude from what is analyzed above is that according to law, it is permitted to inflict suffering on animals in scientific and medical experiments – but for the reason of piety, to avoid cruel behavior, it is forbidden according to the ruling of Rabbi Moshe Isserles....but in [a situation of] other need, it is forbidden because of [the consideration of] cruelty...however, as a matter of law, it is permitted."

As if this did not state my argument clearly enough, in the final draft that we were sent electronically in Footnote 30, she quotes no less an authority than Rabbi Yehiel Weinberg as saying, "piety is a matter for an individual to assume in his own life but not to impose on others". She is forced to include this footnote or she would have had to have by acquiescence agreed to Breisch's position that in medical research *achzariyut* would have trumped *tzorech adam* and she would have been forced to rule a significant limitation on the use of animals in medical research. A position that would never have been accepted by our committee and would have doomed her paper, but in quoting Rabbi Weinberg she in essence makes my argument for me. Her paper is a *chumra* based on an individual's sense of piety.

On page 24, she acknowledges also that according to Rabbi Golinkin, "Jews have always acted *lefanim meeshoorit hadin*, which would argue that we should maintain a higher standard even though something may be permitted. Again an example of personal piety imposed on others.

It is clear from the paper that veal is permitted by Jewish law and obviously by common observant practice; but she wishes to outlaw it to uphold the higher standard.

I would have no problem with a paper that concludes that "Jews who wish to act at the highest level of sensitivity and concern, should insist on certain standards (and they should be articulated); but that as long as the following minimal standards are maintained, (to be determined) Jews may still consider it permissible to eat veal." We would all agree that veal raised below a certain standard would be forbidden on the grounds of *Tzaar Baalei Chayim*.

There are other areas that are problematic as well with Rabbi Barmash's approach. First of all, it is not effective in advancing our goal which is to much more widely increase the production of veal at a higher level of humane treatment.

If we simply say all Conservative Jews who listen to us will cease to eat veal; we eliminate any influence we have in the marketplace to try to raise the standard. If on the other hand, we encourage a minimal standard to be observed, and we have a way to identify that standard, such as insisting that meat come to us approved by currently the AVA, or perhaps down the road, the AMI, which may be ultimately the most effective group, since AMI standards in beef are what are insisted upon by all fast food chains and supermarkets. The fact that they are such a powerful market force, has forced beef to be raised to a minimum of AMI standards. This ought to be the direction that we work towards so that we are not just piously making statements, but we are actually producing a real change in the industry. Again, reserving the rights for those who wish to be *Machmirin* to be able to pursue their own standards. And ultimately, the most "Machmirin" would be vegetarians.

In the New York Times, Dining In, section of Wednesday, April 18, 2007, there is an article entitled, "Veal to Love, Without the Guilt." The sub heading is "A little coddling for the calves is bringing a meat long shunned back into acceptance."

The article informs us of a small movement of farmers to raise their veal in a more humane way, often allowing them to either range freely, or at least to be raised in an area where they have enough space to be able to turn around; and they have a diet that is not exclusively milk; and a diet that includes grain.

What the article shows is that animals raised on a non-exclusively milk diet are actually tastier. They will not reach what was once the cherished bar of quality veal, i.e., can be "cut with a fork;" and in fact they are redder and now are easily "cut with a knife"; but ironically, the meat tastes better and is now being reintroduced in restaurants by great chefs – both because it is more humane, and because it tastes better.

After our last meeting, I met with a kosher butcher of a large business in Boca Raton, and asked if there was any way that he, as the butcher, would have any idea about how the veal that he received from his wholesaler was raised ?

The answer simply was, "no."

I also asked him about the color of the veal, since in all of my years, I have yet to see pure white veal ever sold in a kosher market. And indeed, that day noted that the veal that was on display was a pinkish red color . That white veal sometimes referred to as "bob veal," is quite expensive; and if it were slaughtered and sold to the Jewish market, given the extra expense of kosher meat, I would imagine it would be prohibitively expensive.

Furthermore, in Rabbi Zushe Blech's major work, "Kosher Food Production," published by Blackwell Publishing, on page 404, he informs us that, "milk-fed veal are raised under conditions that tend to weaken their health enough so that perhaps only ten percent of the animals shechted actually pass inspection as kosher."

It would seem to me that this corroborates my experience as a consumer that it simply doesn't pay as a kosher slaughterer to purchase the "bob veal," i.e., the milk-fed veal, because you would have to shecht ninety calves to get ten that would produce a kosher front quarter.

In addition, although Ashkenazic practice permits an animal to be kosher if it has a number of sirchot [lesions] that can be removed and the lungs stay intact; and in fact if it is according to some authorities two or less, it can even be sold in Ashkenazic markets as "glatt" – that ruling is only for beef. Ashkenazic law would insist that for veal and lamb, the Beit Yosef standards are maintained. Meaning that any sirchot, even if they are able to be easily removed, would render the animal unacceptable.

Given the conditions of the most oppressive, inhumane standards of raising veal, most of these animals would never become kosher. Thus I believe most kosher producers would be buying the healthier and therefore more humanely raised animals.

I also wish to raise the moral and ethical issue of whether a general outlawing of veal, based on the requirement of proving that all veal meets the high standards of the Pesak, but at the same time knowing ahtat these standards are functionally impossible to verify, would lead all veal to being in the category of safek and presumably prohibited. This would harm any and all farmers who currently or might in the future, choose to raise their animals more humanely. Our pesak should protect and encourage them, not punish them.

Also since there would be no way to prove that the meat was raised at a higher humane level there would be no benefit to the farmers in raising their standards to meet the standards of the Conservative movement.

In essence, I am saying that we should find a better way to be part of a force that leads to a real

change in the marketplace, rather than declare that we will not eat veal; which will change nothing in the food system; and punish those who are making an effort to change.

A related issue that we should be aware of, if we pass this teshuvah based on the underlying arguments of achzariyut overturning the halachically legitimate principle of tzorech adam, is the real possibility of the next teshuvah coming down the pike, or the query that will stimulate its being written, which is why stop with veal?

There are many issues pertaining to all forms of farm raised animals on land and in the seas. I clearly see the next teshuvah coming to us to outlaw all but free range chickens for many of the same reasons. I think it hasn't come up yet because we have less of the anthropomorphic identifying with chickens, who are not as "cute" as calves or potentially pathetic looking as anemically raised calves, yet if we choose to look closely may have a whole litany of "inhumane" standards of production.

We must realize that farm raised animal proteins are a great boon to mankind because it brings a much greater amount of animal protein at an affordable price to the world's tables raising the standard of living and of nutrition to many more people in the world. Ultimately this is the most powerful reason why tzorech adam must triumph over tzaar baalei chayim.

There is only one argument that can be raised against this last point and that is that a vegetable based protein diet can feed the world, and without any of the animal suffering issues. This is ultimately the vegetarian argument and it would be quite compelling if we ruled that eating animal based protein is a luxury and not a necessity.

Leaving aside scientific arguments on nutritional needs, the issue of mandatory vegetarianism has long ago been decided in Judaism. We are permitted and according to many sources on certain occasions required to eat animal based protein.

Only in the garden of Eden were we commanded to be vegetarians and since then meat has been a God granted compromise until the coming of the Messiah. We may be in the "beginning of the messianic era" but we have not arrived yet, and so eating meat is a right and for many a necessity, that from a Jewish point of view is not up for discussion. We have no Rabbinic right to cause it to be prohibited.

Lastly, it is not clear that all of the steps required in the teshuva are in fact scientifically proven to be inhumane; some of them may in fact be anthropomorphic. That is to say, we would consider them to be inhumane if they were being done to us; but are not in fact a problem to the animal. For example grooming themselves, clean bedding, and limited isolation of calves, might well fall into that category of anthropomorphic but not scientific inhumane treatment.

For all of the above reasons, I therefore recommend that the paper be rejected; and that instead, we work towards a consensus of minimal standards, and after agreeing to those standards, make this an issue for our Social Justice Committee. Just as what might emerge eventually as a hechsher tzedek (hopefully under a different name) is not coming out of the Law Committee, but coming out of our Social Action; so too should our approach to affecting a change in veal come out of our Social Action Committee as well.