

Holy and Humane: Food in Jewish Religion

Synonyms

Kosher, Kashrut, halakhah, Torah, slaughter, sheḥiṭah, ritual.

Introduction

Many of the laws and commandments that lie at the root of Judaism set out rules for how the community of Israel is required to relate to the production, distribution and consumption of food. The commandments of the Torah (the five books of Moses that stand at the core of the Jewish scriptures) are defined and supplemented by an elaborate oral tradition embodied in the Talmuds and other works by the Rabbis over the ages. The present entry deals primarily with the Jewish dietary laws ("kosher" food) with special reference to the diverse interplay between ritual aspects (aimed at instilling holiness in the lives of Jews) and ethical issues that arise in the production of food, notably matters involving the humane treatment of animals. The advent of modernity has given rise to an intensifying of ethical questions sparked by the industrial mass-production of food (especially of meat) and by increased sensitivity to ethical concerns.

Relevant Ethical Principles

In Rabbinic Judaism, ethical questions are often framed in terms of law, though the relationship between law and ethics is not always easy to define. In particular there exists a flexibly defined realm of "within the line of the law" (analogous to the English "beyond the letter of the law") which comprises moral behavior that is not enforceable by the judiciary and yet is regarded as part of the structure of religious law.

The Prohibition against Causing Suffering to Animals

Jewish religious law—"halakhah"—forbids the inflicting of unnecessary suffering on animals [ṣa'ar ba'alei ḥayyim]. Most authorities understand that this is implicit in Exodus 23:5 which commands to ease the burden of an animal even if it belongs to a personal enemy. Differing views have been expressed as to when the suffering should be classified as "unnecessary"; some of these views, as they relate to agricultural activities and food preparation, will be discussed below. The imperative of humane treatment of animals became an important issue, for example, in modern Israeli farming when dealing with the talmudic prohibition of milking cows on the Sabbath. Concern for the pain that would otherwise be caused to the cows motivated rabbis to devise permissible ways of milking, whether by means of ingenious legal constructions or with the help of technological solutions (automatically timed milking machines). (Steinberg 1979; Schwartz 1997)

The Prohibition against Destroying Food

Deuteronomy 20:19 states “When thou shalt besiege a city a long time, in making war against it to take it, thou shalt not destroy the trees thereof by wielding an axe against them; for thou mayest eat of them, and thou shalt not cut them down; for is the tree of the field human, that it should be besieged of thee?” Talmudic law understood this as an interdiction against wanton destruction of any fruit-bearing trees. Protection was extended to the fruit itself, and the law forbids any other kind of wasteful spoiling by direct or indirect means, such as hunting for sport or diversion of water sources. This principle has come to serve as a central foundation for recent attempts to incorporate ecological and environmental criteria into religious law, including the dietary regulations (see below). (Zevin 1969) Earlier treatments of the topic were often limited by their acceptance of the doctrine ascribed to Aristotle that divine providence prevents the extinction of entire species (e.g., Maimonides, Guide 3:17).

Torah and Vegetarianism

The biblical narrative depicts the earliest stage of humanity as essentially vegetarian. The first man and woman were instructed to eat only from the fruits of the trees in the garden of Eden, and it was only after the flood in the days of Noah (Genesis 9:3) that God told the survivors “Every moving thing that lives shall be food for you, and as I gave you the green plants, I give you everything.” While this suggests that vegetarianism is an ideal state reflective of humanity’s original vocation, biblical law and practice make it amply clear that the slaughter of animals and consumption of meat are not merely a concession to human weakness, but a central requirement of sacrificial worship and other aspects of Israel’s religious life. At any rate, notwithstanding the diversity that usually characterizes Jewish theology and exegesis, no one has challenged the basic premise that humans occupy a higher plane of the spiritual hierarchy than other living creatures. The Jerusalem and Babylonian Talmuds (j.Kilaim 9:4 [32b]; b.Bava Mešia’ 85a) tell a remarkable legend about Rabbi Judah the Patriarch being approached by a young calf that was pleading to be saved from the slaughterer’s knife, but Rabbi Judah dismissed him saying “This was what you were created for.” As punishment for his indifference Rabbi Judah was subjected to a severe and prolonged toothache that did not cease until he redeemed himself by showing compassion to a nest of rodents. There is no suggestion that the author of this story was calling for avoidance of meat on ethical grounds—but nevertheless, feelings of compassion toward animals are nonetheless to be expected from decent and pious people, in emulation of the divine quality expressed in Psalms 145:9: “The Lord is good to all, and his tender mercies are over all his works.” Even an influential thinker such as Rabbi Abraham Isaac Kook (1865–1935) who promoted the ideal of vegetarianism as part of his eschatological vision (and is often described incorrectly as being himself a vegetarian), was opposed to its practice as long as the world remains unredeemed (Rosenak 2007 358-364).

Distribution of Produce

The Torah and much of talmudic literature were composed against a background of peasant life. The Israelites to whom they were addressed lived off the land for the most part, sustaining themselves through farming or husbandry. Biblical law contains elaborate instructions for setting aside certain portions of produce that must be distributed to various recipients, such as: the poor, or (what sometimes amounted to the same thing) the Levites and priests who possessed no land of their own and would therefore rely on those portions for their subsistence and to enable them to pursue their spiritual tasks. A “poor tithe” was to be paid on the third and sixth year of every seven-year cycle. Similarly, during the harvests of the respective crops, the Torah designated portions of the produce that must be left for the poor. These include the “border of the field,” the forgotten sheaves and olives and the gleanings of the vineyard (Leviticus 19:9-10; 23:22; Deuteronomy 24:19-20). All of these practices were defined with precision in rabbinic law, especially in the tractates *Pe’ah* of the Mishnah and Jerusalem Talmud which include descriptions of sophisticated municipal social welfare structures for the collection and distribution of food for the local and indigent poor. The Torah regards these portions as belonging to the poor by moral and legal right and not subject to the vagaries of the donors’ generosity.

Underlying the scriptural institutions of sabbatical and jubilee years (see Exodus 23:10-11; Leviticus 25; Deuteronomy 15:1-10) was an ambitious agenda that combined theological, social and environmental dimensions. Whereas the command to leave the fields fallow every seventh year might serve a pragmatic purpose in restoring nutrients to the soil, the Torah also incorporates that command into far-reaching social legislation such as: leaving produce for the poor and beasts of the field; cancellation of debts, emancipation of slaves, the restoration of ancestral properties to their original owners (who had likely sold them out of economic duress) and other measures that convey the profound ideal that “the land is mine [God’s], for ye are strangers and sojourners with me” (Leviticus 25:23). Evidence indicates that sabbatical years (at least, their agricultural aspects) were observed quite rigorously in Second Temple and talmudic times; though in modern times the dominant tendency among religiously observant Jews has been to circumvent the more burdensome prohibitions by means of legal fictions or by relying on imported produce (the restrictions are understood to apply only in the land of Israel).

Seeking Reasons for Dietary Laws

A characteristic feature of biblical writing is its tendency to refrain from supplying explicit reasons for the commandments. In many cases, the reasons may be self-evident, while in some instances (particularly in ritual and cultic matters), religious virtue may well lie in the simple readiness to obey a divine commandment *qua* commandment, without seeking a more specific rationale. There are cases in which the tradition is altogether ambivalent about whether a given law was commanded as an ethical precept or as a sacramental or disciplinary ritual.

This ambivalence is very evident in some of the dietary laws, which include several components that lend themselves to ethical interpretations, though those interpretations are not spelled out explicitly in the official texts and are not necessarily authoritative. Indeed, rabbinic discourse often prefers to deal with the mechanics of religious laws independently of their theological or moral foundations. Although the ethical and the theological aspects are both essential components of Torah law, the conceptual terminology of rabbinic discourse distinguishes between the social and the ritual realms—those commandments that involve the relationship “between a person and one’s neighbor” as distinct from those that are “between a person and the Almighty” (*bein adam le’havero*, *bein adam lamma’om*)

For example, Leviticus 11 and Deuteronomy 14 set guidelines for distinguishing between permissible and forbidden species of land animals, birds, aquatic creatures and insects. The rules are justified in terms of purity and holiness, not morals or ethics. Edible quadrupeds are identified only by physical criteria: they must chew their cuds and have cloven hooves. However, some commentators, such as Don Isaac Abravanel (1437–1508) noted that all the animal species that are permitted under that definition are peaceful herbivores; they do not possess the sharp teeth or claws that would equip them to be predators. The forbidden birds enumerated by the Torah are also predatory by nature, and to some extent the same principle can be extended to sea creatures as well.

This kind of exegetical ambivalence pertains to some other scriptural dietary laws that are more likely to be rooted in ethical concerns, such as not seething a kid in its mother's milk (Exodus 34:26; 23:19; Deuteronomy 14:21), which rabbinic law expanded into the complete separation of dairy and meat. The same ethical interpretation might apply to the precepts "a cow or a ewe, you shall not kill both her and her young in one day" (Leviticus 22:28) and "if a bird's nest chance to be before thee in the way in any tree, or on the ground, whether they be young ones, or eggs, and the dam sitting upon the young, or upon the eggs, thou shalt not take the dam with the young: but thou shalt in any wise let the dam go, and take the young to thee" (Deuteronomy 22:6-7). All these precepts can be interpreted as intended to avoid acts of real or symbolic cruelty in recognition of the maternal instincts common to all living creatures (thus Rashbam, S. D. Luzzatto and others); however, several Jewish commentators (including Nahmanides, Bahya and others) explained the latter two precepts on ecological grounds, as being motivated by pragmatic concerns for possible depletion of the fowl supply. As regards the "bird's nest" precept, the issue was especially confused by a passage in the Mishnah (Berakhot 5:3, Megillah 4:9) that forbids the liturgical formula "your mercies extend unto a bird's nest" (a formula that has in fact survived in a Palestinian Aramaic Targum). An authoritative opinion in the Talmud (b.Berakhot 33b; b.Megillah 25a) explains the reason for this liturgical prohibition as "because one is thereby treating the qualities of the Holy One as if they were based on mercy, whereas they are really absolute decrees." The severe difficulty that this text placed in the way of Jewish ethical thinkers is particularly apparent in the writings of the great codifier and philosopher Moses Maimonides (1135-1204). In his earlier works (his Arabic commentary to the Mishnah and his Mishneh Torah code of Jewish law), he copied the talmudic ruling, adding that "if the precept were really motivated by compassion, then God would have altogether forbidden slaughter." However, in his more mature philosophical treatise, the Guide of the Perplexed, he dismissed that approach as reflecting nothing more than a marginal minority opinion among the talmudic sages, whereas a proper understanding of the Torah does indeed require that all its commandments be placed on a rational or ethical basis. (Segal 1991)

The Torah prohibits hybridization of mixed species of fauna and flora, or even ploughing with mixed species or wearing fabrics of mixed wool and linen. Some commentators, such as Rabbi S. R. Hirsch [Horeb Ch. 57] ascribe this to a fundamental obligation to "respect the Divine order in God's creation" in the sense that "You should not interfere with the natural order which you find fixed by God in His world for its ultimate good." (Hirsch 1962, 282-289) If applied consistently, this approach could lead to a complete rejection of genetic modifications of food, though that has generally not been the policy followed by Jewish law. The ban on mixed fabrics has in fact been classified as a "ḥok," a humanly incomprehensible ritual precept; whereas that on ploughing with an ox and an ass is usually explained as motivated by concern for the animals' discomfort when they work together at different paces.

Medieval Jewish rationalists like Bahya Ibn Paḳuda and Maimonides insisted that the specific commandments and laws must be understood within a broader spiritual context and that observant Jews should never lose sight of their higher religious purposes. However, their world-views were usually directed toward a goal of intellectual perfection, and they regarded ethical and moral improvements as means toward that end rather than as ultimate objectives in their own right. Followers of the Lithuanian "Mussar" (moral discipline) movement led by Rabbi Israel Lipkind Salanter (1810-1883) stressed the primacy of ethical concerns.

The required method of killing animals for both sacrificial and private use, known in Hebrew as sheḥitah, was not set out explicitly in the Torah, but was defined in very precise terms in the rabbinic oral tradition. It involved the slashing of the animal's trachea and esophagus with a very sharp and smooth knife in a single movement. The rabbis supervised the slaughterers very carefully to make sure that there were no nicks in the knife and that the act itself was performed without pauses or inconsistent pressure that could cause pain to the animal. Violators would have their meat declared ritually forbidden for consumption, and the butchers might be disqualified from practicing their profession (Berman, 1941, 83-134). It was Maimonides who made the most influential case advocating an ethical or humane rationale for the Jewish procedures of slaughtering animals and fowl for food. In the Guide 3:26, in the context of his general argument for the rational basis of the Torah's laws, Maimonides confronted a problematic passage from the Talmud in which a rabbi stated that it makes no difference to God exactly how an animal is put to death, and that the required procedure for slaughter was instituted only to "refine" people and test their obedience. Against this position, Maimonides argued that the Jewish procedure for slaughter embodies the optimal method for achieving a number of desirable ethical objectives. Given that the consumption of meat is essential to the physical well-being of human beings (on this point Maimonides invoked his considerable credentials as a physician), it follows that animals must be killed for food. The sacred law therefore provided a set of rules that would ensure an easy, painless death for the victim. While there might be other ways of achieving this objective, sheḥitah has the advantage of being comparatively easy to perform without the need for expensive specialized

instruments. It thus provides a reasonable balance between considerations of humaneness and of practicality. If Jewish law had insisted on more elaborate or costly methods, it is unlikely that they would have been widely observed, and this would have defeated their original purpose. (Berman 1941 432-433)

Medieval rabbinic documents indicate a number of ethical issues that were encountered frequently in connection with the slaughter and sale of meat. For the most part, the issues that arose involved fraud (passing off non-kosher meat as kosher) or the general ethical and moral standards that should be demanded of a butcher, such as whether they could be allowed to follow their trade after being found guilty of a sin or crime. The primary impact of such questions was on the trustworthiness of the butcher's declaration that his meat was kosher. The humane treatment of the animals, albeit a value well established in traditional Jewish ethics (see above), was not considered a central issue in the observance of the dietary rules. The spread of Kabbalah, especially since the sixteenth century, tended to emphasize symbolic and theurgic interpretations of the commandments rather than their social or ethical dimensions. Nevertheless, the kabbalistic doctrine of reincarnation (gilgul) promoted the belief, especially in the eastern European Hasidic movement, that proper slaughter might be necessary to allow the errant soul that was reincarnated into the animal's body to be elevated to a higher state of being in its next life. (Shmeruk 1965)

Modern Developments

In modern times, Jewish religious authorities began to take a more serious interest in the humane treatment of animals used for food. This was often in response to government initiatives to introduce regulations in that area, beginning in Switzerland in the 1860s, and notwithstanding the fact that such initiatives were frequently motivated by anti-Jewish or anti-semitic agendas (animal rights enactments were among the earliest legislation to be introduced by the German Nazi party). Jewish law also had to confront new realities created by the industrialization of meat processing, as the economic desire for massive output promoted practices that cause severe discomfort and pain to the animals, such as "hoisting and shackling," force-feeding and restrictive confinement of calves or geese to produce veal or *pâté de foie gras*. For example, Canada's "Humane Slaughter of Food Animals Act" of 1959 impelled the local rabbis to investigate humane alternatives to hoisting and shackling and this led to early adoption of pneumatic restraining mechanisms that were far less traumatic to the animals, but could nonetheless be run at an economically acceptable pace. (Klein 1979, 93).

As the locus of food processing and distribution shifted away from individual homes and villages and was delegated to impersonal corporations, consumers were increasingly unaware of inadequacies in the standards of humane treatment of the animals. Furthermore, the Jewish insistence on performing the slaughter while the animals are conscious conflicted at times with secular standards that preferred that they be stunned first. The traditional Jewish position has usually been that the procedures for stunning, which might involve a blow to the head or electric shock, causes greater pain than the instantaneous slashing of vital organs required by Jewish law; at any rate, the injuries that are inflicted on the skulls and brains during the stunning can render the animals ritually forbidden. In some cases attempts were sought to devise halakhically acceptable alternatives for rendering the animals unconscious before the slaughtering.

An instructive example of ethical rethinking in Jewish law is the question of veal. The twentieth century's foremost Orthodox authority on Jewish religious law, Rabbi Moses Feinstein (1895-1986) devoted a responsum to the subject (Iggerot Moshe E.H. #92) in which he concluded that the standard methods for producing veal are objectionable for a number of reasons. For one thing, as a consequence of the unnatural conditions in which the calves are bred, the great majority of them are too weak and damaged, especially in their lungs and intestines, to satisfy the health requirements for kosher meat. Ultimately Rabbi Feinstein declared that the Jewish ethical principle of humane treatment of animals—*ša'ar ba'alei hayyim*—will not tolerate the practice. Even after conceding that legitimate human needs, such as the elimination of hunger or disease or harnessing them for labor, may sometimes override concern for the animals' comfort, the cruelty associated with raising veal calves for financial profit can hardly be classified as a real "need." In the present instance, where the calves are fed nutritionally inappropriate foods in order to whiten the red meat and (as Rabbi Feinstein understood it) to create a misleading impression that it is more healthy, the process is essentially fraudulent and ought to be forbidden for that reason alone. While Rabbi Feinstein's responsum confined itself to very specific issues, and did not distinguish clearly between the raising of veal calves and the post facto permissibility of veal, other rabbinic authorities

(including those from more liberal Jewish streams such as Conservative Judaism's Committee on Law and Standards) have extended his principles to warrant the disqualification of other meats whose methods of production cause undue suffering to the animals. (Bleich 2007; Golinkin 1993).

The Impact of Postville

An important milestone in the relationship between Jewish dietary laws and ethics occurred in 2004-2008 with the public disclosure that the Agriprocessors abattoir in Postville, Iowa, the largest kosher meat-packaging plant in America, was guilty of numerous infractions involving mistreatment of the animals, environmental violations and abusing their workers many of whom were illegal immigrants or children. Jewish religious authorities who might otherwise have maintained a theoretical aloofness from the ethical aspects of kosher food production and marketing were now placed under strong pressure to respond to the moral challenges implicit in the scandal. Previously, avowals of the ethical imperative in food production had been made only by individuals and small groups such as the Jewish Renewal movement (which was advocating the inclusion of ecological criteria for kosher certification in the 1970s), but had minimal impact on the institutional mainstream, especially among the Orthodox communities who were most consistently involved in the observance and enforcement of kosher standards. (Waskow 1995; Zamore 2011) Apart from condemnations of the immoral and illegal practices, which were of course shared by Jewish leaders and organizations across the theological spectrum in North America and in Israel, there has been a call for more consistent institutional policing of ethical standards as dictated by Jewish religious law. Some groups announced plans to issue certificates to any kind of business that satisfied ethical standards for the treatment of their employees (as mandated by Leviticus 19:13, Deuteronomy 24:14, etc. and in the Talmud Bava Mešia' Chapters 6-7, etc.); however, most such programs focused more narrowly on food-related enterprises, taking their cue from the extensive network of agencies that were already in place to certify compliance with the ritual dietary laws. Heretofore, rabbinic bodies usually maintained the traditional distinction between the human-divine and the interpersonal realms, so that a declaration that an item is "kosher" related to such criteria as the ingredients and the vessels in which the food was prepared. Consideration of more indirect factors, such as Sabbath violations or sabbatical year restrictions, has sometimes proven controversial, but has generally been accepted as a legitimate criterion. Now the question is accordingly being posed as to whether kosher certification can also include assurances that labor conditions, humane treatment of animals, honesty, organic standards and ecological sustainability conform to acceptable halakhic requirements. The type of investigation that is necessary to ascertain compliance in those categories would be much more difficult to monitor and verify than the already complex inspections that are conducted in order to establish the animals' physiological soundness, the chemical and biological components of the food, etc. (Fishkoff 2010). The research would likely need to be expanded to include financial audits, labor contracts or union policies, information about disposal of waste products, energy consumption and much more. Such specialized investigations might prove financially prohibitive, and perhaps the most that can be expected is some sort of conditional certification that would be removed in the event of a proven violation.

The flurry of noble intentions and projects that were announced in the immediate wake of the Postville disclosures have been quite slow to translate into concrete actions, but it appears that there can be no turning back at this stage, and that Judaism stands at a momentous turning point in its confrontations with the ethics of food.

Summary

The authoritative sources of Jewish religious tradition contain extensive guidelines for the production and distribution of food within a non-vegetarian ethic. Although there are a number of ethical principles that are implicitly bound with the preparation of food—such as the requirement to set aside portions of the produce for the needy, and the prohibitions against causing suffering to animals and against wastefulness—the classification of food as "kosher" has been perceived overwhelmingly as a matter of ritual practice intended to promote discipline and spiritual holiness. Nevertheless, individual Jewish commentators pointed out ethical themes in the dietary laws, such as the implicit exclusion of predatory species, and the fact that the prescribed method of slaughter brings about instantaneous and painless death. Until recently, there were relatively few instances in which rabbis were called upon to invoke ethical factors in connection with food production; such as the problem of milking cows on the sabbath, or the raising of veal calves under conditions of unnatural confinement and unhealthy diet. The scandal of the Agriprocessors kosher abattoir in 2004-2008, with its numerous abuses of animals, workers and the environment, is leading to a renewed awareness of the ethical factors involved in meat production and how these might be incorporated into the definitions of kosher food.

Cross-References

Animal Welfare Standards, Food and Rituals and Ethics, Food Safety and Kosher Certification, Food, Industrialization and Biosecurity, Gleaning, Hazon, Industrial Food Animal Production Ethics, Industrial slaughter and animal welfare, Food Preparation, Cooking and Ritual in Judaism , Judaism, Food Ethics and Agriculture, Meat: ethical considerations, Vegetarianism

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