

# Animal rights – Jewish perspectives

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»A righteous man knows the needs of his beast, [...].«<sup>1</sup>

This article begs the question why is it, that despite Jewish tradition devoting much thought to the status and treatment of animals and demonstrating strict adherence to the notion of preventing their pain and suffering, ethical attitudes to animals are not dealt with systematically in the writings of Jewish philosophers and have not received sufficient attention in the context of *moral monotheism*. What prevented the expansion of the golden rule: »Love your fellow as yourself: I am the LORD«<sup>2</sup> and »That which is hateful to you do not do to another«<sup>3</sup> on to animals? Why is it that the moral responsibility for the fellow-man, the neighbor, or the other, has been understood as referring only to a human companion? Does the demand for absolute moral responsibility spoken from *the face of the other*, which Emmanuel Levinas emphasized in his ethics, not radiate from the face of the non-human other as well? Levinas's ethics explicitly negates the principle of reciprocity and moral symmetry: The ›I‹ is committed to the other, regardless of the other's attitude towards him. Does the affinity to the *eternal Thou* which Martin Buber also discovers in plants and animals not require a paradigmatic change in the attitude towards animals?

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1 Pro 12,10. The English translations of the Tanakh and the rabbinic literature are taken here and below from the online library for Jewish texts: [www.sefaria.org](http://www.sefaria.org).

2 Lev 19,18.

3 BT Shabbat 31a:6, and JT Nedarim 30b:1.

## Prologue

In 2013, renowned radio broadcaster and educator Dennis Prager published a short opinion article in the *National Review* titled »Dogs, Humans, and God«. According to him, during his 40 years of teaching, he has repeatedly got the same results from asking students the question *Who would you help first: your drowning dog or a drowning stranger?* A third of them say that they would help their dog first, a third would first help the stranger, and a third say that they do not know what they would do. According to him, researches show that more than forty percent of the participants in this type of study think they would help their dog over a foreign person. In other words, their moral judgement is based on emotions and determined by proximity and familiarity, rather than on moral-rational considerations or a general principle of justice.<sup>4</sup> Prager was shocked by the results of the study and asked the students to reflect the question *What if the person in this situation would choose to save his dog and not the ›stranger‹ who happens to be your relative?* He writes: »[...] the most important question for human beings to ask is how we teach ourselves to ›extend our humaneness to other human beings.‹ Or, [...]: How do we convince people to save a human being they do not know rather than the dog they do know and love?«, and he ends his article by saying: »I, too, love my dogs. But I believe that God demands I save any of you first.«<sup>5</sup> Prager's concern is first and foremost educational, to raise awareness among his listeners of how they construct ethical judgments and how to advance ruling based on reason and principle of justice over emotions and personal interest. However, his words above implied the following assumptions: (1) animals already seem to have moral status (in this context, dogs that are loved by humans),<sup>6</sup> and (2) it is the role of religious belief in our time to serve as a foundation for a humanist approach (*humanist* in the full sense of the word: a moral commitment to humans). In other words, in his approach, the role of theology is to lead to ethics. However, do we need the guidance of divine revelation in order to have a *Kantian* categorical preference of man over animals? Has the tradition of ethical philosophy, from Plato to Hegel, not regarded man alone as the moral subject?

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<sup>4</sup> See Singer 1997; and on the question of proximity and moral responsibility see, e. g., Kamm 2007, pp. 345-360.

<sup>5</sup> Prager 2013.

<sup>6</sup> I use the term ›animals‹ to refer to non-human animals.

The basic premises of the present article are different: animals do not have moral status, and it is not a simple task to determine what their moral status should be.<sup>7</sup> And most important: whether the tradition of monotheism is the main source of modern ethics, as many philosophers of the early 19th century think, or it is not, the role of theology in our time is to point out the limitations of humanism, to moderate human pride and the pretense of ›knowing everything‹, and to constraint human superiority over animals and the non-human environment. According to the philosopher Ze'ev Levy (d. 2000): »Just as ethnocentrism is disappearing thanks to scholars and thinkers such as Levi-Strauss, Levinas, Derrida, and similar thinkers, it is likely that anthropocentrism will also decline.«<sup>8</sup> Levy says this as a critique of ethnological approaches in science that until recently believed that ›primitive‹ and ›wild‹ cultures did not have the same scale of emotions that characterize the ›cultivated Westerners‹. He argues that anthropocentrism is also likely to weaken and that the existence of certain emotions that break the boundaries between the species will be recognized. In light of recent research on mammals, such as elephants, whales, dolphins, and apes, the question arises whether similar consciousness and emotions exist in simpler animals. He writes: »It is vanity to assume that only us, humans, are blessed with intelligence, consciousness, and emotion.«<sup>9</sup> The studies of Levy, one of the prominent Jewish philosophers of our time, demonstrates a belief in the necessary connection between religion and science in general, and between Jewish and general thought in particular. His approach is unique because he sees this connection also when it comes to ecology and animal matters.

Naturally, there are different approaches within Jewish thought, and there are disputes concerning the *essence* of Judaism and which literature represents the center of Judaism: whether the Bible, Halakha, and liturgy, the Midrash-legends, Kabbalah or philosophy. However, the centrality of the relationship between man and the one and unique God is an element that is shared by the different approaches of the various Jewish thinkers throughout the ages.<sup>10</sup> From a Jewish perspective, an ethical-humanistic

<sup>7</sup> This claim needs not to be proved. In some countries there are laws to prevent cruelty to animals and reduce animal suffering, the laws are indeed enforced and, in some cases, high financial penalties and even imprisonment are imposed. However, these laws are not based on the animal's moral status but on the expectation of moral behavior from man towards beings capable of experiencing pain.

<sup>8</sup> Levy/Levy 2002, p. 145.

<sup>9</sup> Levy/Levy 2002, p. 151.

<sup>10</sup> See, e. g., Heschel 1955, pp. 136-144.

approach that lacks a divine, sacred element that is external to man could not offer a complete ethical framework. Ethical evaluations on human or environmental affairs that are lacking in the possibility of an eternal, unifying and unchanging element that conveys the absolute ›good‹ on the one hand, and in the intimacy between the individual and his God, on the other hand, will be incomplete.<sup>11</sup> In other words, in Jewish teaching not only normative laws are regarded as binding solely upon the authority of divine revelation, but ethical principles as well are regarded as endowed with validity and commended as goals of human aspiration only if they, too, are divinely revealed.<sup>12</sup> As many modern Jewish thinkers promote the conceptual reciprocity between theology and ethics, one must hope for the establishment of a theo-ecology, which would help to extend our attitudes to animals and nature.

The biblical demand to »walk modestly with your God«<sup>13</sup> is usually understood in tradition as a religious obligation of humility. In modern Jewish philosophy, it is interpreted as a demand to moderate human arrogance and vanity and guarantees man's independence from irrational human authority.<sup>14</sup> This demand can also be found in the interpretation of Solomon's well-known verse<sup>15</sup> that appears in the liturgy of morning prayers: »[...] man has no superiority over beast. [...]«<sup>16</sup> This idea also appears in the Talmud: »[Adam] was created on Shabbat eve so that if a person becomes haughty, God can say to him: The mosquito preceded you in the acts of Creation.«<sup>17</sup>

First, I would note that I followed Prager's recommendation. I was surprised to find that among my seminar participants on the subject *The Moral Status of Animals in Judaism*, a certain percentage of students said, concerning the ›stranger-dog situation‹, that they would save their pet first. Is the animal liberation struggle that began in the Seventies of the

11 This notion began with the immense philosophical enterprise of the Neo-Kantian Hermann Cohen, at the end of the nineteenth and early twentieth centuries. In his approach, the inter-relationships between man and God in monotheism constitute an essential element of religion, which defines and extends the boundaries of ethics. His approach suggests that Jewish messianism cannot be exhausted merely as moral socialism.

12 See Bleich 1987, p. 82.

13 Mic 6,8.

14 See, e. g., Fromm 1966, pp. 73-75.

15 In the Midrash it is written that Solomon knew the language of animals: »A bird squeaks and he [Solomon] knows what the bird squeaks about, a donkey brays, and he knows what the donkey is braying about« (Kohelet Rabbah 1,1).

16 Ecc 3,19.

17 BT Sanhedrin 38a.

last century taking place in our time only in the legal sphere – legislation for the protection of animals – while in the public consciousness, from the perspective of *practical* ethics, animals already obtain their appropriate moral status? In my humble opinion, not yet.

## Creation in the image of God vs. »Be fertile and increase. . . «

In the biblical view, God created all living things and appointed man to be the ruler of all beings that were designed to serve him: »[...] rule the fish of the sea, the birds of the sky, and all the living things that creep on earth.«<sup>18</sup> Man's supremacy over the animals is expressed in the belief that man was created in the image of God (hebr. *ṣælæm Elohim*). The word *ṣælæm* (romanized: *tzelem*) is often translated as »image«, »picture«, »shadow«, or »likeness of God«. There are various interpretations as to what it means. The image of God is a universal element, which grants man his unique essence, which is not just a human essence, but rather a like-divine.<sup>19</sup> Most biblical commentators understand it as a divine spark, which bestows man with wisdom, conscience, ability to innovate and create, ability to control inclinations, ability to be compassionate, and to have freedom of will.<sup>20</sup> Among some medieval thinkers and in the Kabbalistic literature, *ṣælæm* is regarded as the eternal aspect of the soul. And, as mentioned, *ṣælæm* was understood in the Judeo-Christian tradition as the distinguishing element between humans and other animals.<sup>21</sup>

<sup>18</sup> Gen 1,28.

<sup>19</sup> According to Yeshayahu Leibowitz (d. 1994), stating that man was created in *the image of God* did not come to describe man's special virtue but rather his disadvantage. Man is not divine. As a *ṣælæm* of the divine man is just a shadow of something else (*ṣælæm* in Hebrew has the same linguistic root as *ṣel* which means »shadow«) and does not have an entity in itself with its own essence. That is, man has no value and purpose of his own, and his meaning is conditioned to his relationship with God. Leibowitz claims that the belief in the creation of man in the *likeness of God* is fundamentally theocentric. In contrast, the basic assumptions of humanism are anthropocentrism and atheism. Leibowitz's position can contribute to the critique of contemporary anthropocentric approaches to nature that have emerged from man's special status in creation.

<sup>20</sup> See Lorberbaum 2015; Scholem 1974, pp. 158-159; and see also Kasher 1998, pp. 19-29.

<sup>21</sup> There is a certain resemblance between this list of abilities, and philosophical attempts have been made to focus on distinguishing man from animals in five areas: the use of fire, incest, the use of devices, common sense and language. However, what really is distinguishing man, is his ability to light a fire and to monitor it. There is no other animal capable of doing so. The other skills can be found, at one level or another, in animals (mammals and birds). See Peters 1972, p. 216.

For example, Maimonides interprets God's image as the source of intellect. Michael Fagenblat says by quoting Maimonides:

People who have not actualized their intellects have not attained the status of being in the image of God and have therefore »been relegated to the rank of the individuals of all the other species of animals: ›He is like the beasts that speak not‹«[Ps. 49:13, 21] (*Guide*, III.18, 475).<sup>22</sup>

Maimonides distinguished man from an animal on the basis of the requirement to study the Torah, which addressed man only. The prohibition in the Decalogue »You shall not murder«<sup>23</sup> appears earlier in Noah's story with the addition of an explanation »for in His image did God make man«<sup>24</sup>. That is, shedding the blood of man, including suicide, is considered as causing harm to God.

In modern times, the only concrete example given by Immanuel Kant to the categorical imperative in his ethics is the prohibition of committing suicide.<sup>25</sup> Common to the two prohibitions, the theistic and the humanistic, is that murder refers only to humans. In the former because man is in the likeness of God and in the latter because man is a rational and moral being (hereinafter). We will not find it difficult to see that there is a conceptual parallel between the likeness of God in the theological view and consciousness in the scientific view. According to the former, human supremacy over animals is implicit in the proximity to God and assumes distance from nature, and according to the latter human supremacy is due to differences in cognitive skills and the ability to apply them concretely. In both approaches, the apparent supremacy is reflected in moral status. In the former, there is a connection between divinity and morality, in the latter between rationality and morality.

There is another example of man's cognitive superiority in the story of Creation which illustrates the apparent relationship between cognition and moral status. The first person received his name from God, but he is also the one who gave the animals their names, that is, the names of the species: »And the man gave names to all the cattle and to the birds of the sky and to all the wild beasts; [...].«<sup>26</sup> On this ba-

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<sup>22</sup> Fagenblat 2010, p. 87.

<sup>23</sup> Ex 20,13; Deut 5,17.

<sup>24</sup> Gen 9,6.

<sup>25</sup> See Cholbi 2000, pp. 159-176.

<sup>26</sup> Gen 2,20.

sis, medieval thinkers believed that man had a right to give names to animals because his intellect allowed him to understand the nature and purpose of each animal and to give the animal the name that fits its purpose.<sup>27</sup> Emmanuel Levinas draws attention to an interesting point. The name Adam is the name of the first man, but the term in Hebrew also means mankind, it includes both an individual and a universal element. This means that a human is a unique individual and at the same time a part of humankind.<sup>28</sup> However, this idea implies that in the story of Creation animals are not perceived as individuals but as a variety of species. That is, while man's particularity can go beyond his association with his species,<sup>29</sup> the particular animal remains nameless and does not gain independent existential status. The single animal is absorbed into its species.<sup>30</sup> According to Erich Fromm language has an immense influence on our moral perception and hence on the relationship with animals. Language can initiate emotional retreat, moral distress, and freezing of empathy toward animals. This is radically expressed in the way we use different words to describe living animals and animals intended for eating.<sup>31</sup> The belief in man's supremacy over animals is nowadays known as *speciesism*. According to Singer, who coined the term, speciesism is a prejudice or attitude of bias in favor of the interests of members of one's species and against those of members of other species.<sup>32</sup>

If the origin of speciesism is indeed in the term ›image of God‹<sup>33</sup>, then theology faces a challenge when it comes to its contribution to the

<sup>27</sup> See Bekoff 1998, p. 78.

<sup>28</sup> In the spirit of Levinas's interpretation blows Hermann Cohen's critique of Kantian ethics. See Pinkas 2018, pp. XVII-XXII.

<sup>29</sup> We find this idea in Mishnah Sanhedrin 4:5: »[...] the Holy Blessed One, has stamped every human with the seal of the first man, yet not one of them is like another. Therefore, everyone must say, ›For my sake was the world created.‹«

<sup>30</sup> At present, we can distinguish the approach of environmental ethics, whose main concern is the negative effects of man and society on nature and aid to endangered species, as opposed to the approach of animal rights movements, which draws their attention to animals as suffering individuals. See Levy 2000, pp. 15-25; and see Derrida 2008, pp. 14-16.

<sup>31</sup> See here Fromm 1973, pp. 120-121: »we use different words for flesh: if the animal is alive, we speak of it as flesh; if the flesh is to be eaten, we call it meat. [...] When we speak of the live animal, we speak of cows and bulls; when we eat them, we talk about beef. Pigs to be eaten call pork, deer we call venison, calf we call veal. While this is not true to all animals, this examples suffice to show the tendency to separate in our minds the categories of living animals from those we eat.« See also Patterson 2002, pp. 10-21.

<sup>32</sup> See Singer <sup>1</sup>1975/2002, p. 35, and Singer 2009, pp. 567-581.

<sup>33</sup> The impact of Aristotle's approach must also be taken into account. Aristotle held that nature is essentially a hierarchy in which those with less reasoning ability exist for the sake of those with more: Plants exist for the sake of animals, and animals for the sake of man. See Steiner 2005, pp. 57-76; Singer <sup>1</sup>1975/2002, pp. 275-277; Rollin <sup>1</sup>1981/2006, pp. 33-142.

attitude towards animals, and we should approach this discourse from an ethical secular critique of humanism. However, in the story of Noah a contradiction arises. On the one hand, man is created in the image of God, that is, man fulfills himself by walking in God's ways. God is not merely »one«; he is also eternal and above all that comes into being. He was not born, he does not grow, he does not desire, he does not fertilize and give birth and he does not die.<sup>34</sup> On the other hand, man is required to act in the world like animals. The demand »be fertile and increase« appears for both animals (Gen 1,22) and humans (Gen 8,17 a. 9,1). In other words, resemblance to God, *imitatio Dei*, demands Torah study and devotion to a ›spiritual‹ way of living, while the demand of reproduction requires devotion to material life and distance from walking in God's way.

This contradiction identified the Talmudic sages. Rabbis Akiva and El'azar ben Azariah disagree on which of the two demands is more essential: »Rabbi Akiva says, anyone who commits murder diminishes the image of God, [...]. Rabbi El'azar says anyone who does not engage in procreation diminishes the Divine Image, [...].«<sup>35</sup> Rabbi Akiva's interpretation emphasizes the supremacy of man, as the only being capable of sustaining God's will and studying the Torah. Rabbi El'azar, on the other hand, interprets the likeness of God as reinforcing procreation. His interpretation reduces the »divine« gap between man and animal, as the demand for procreation also addresses animals. Ben-Azzai, who never married, with the argument that his soul desired only the Torah, is given as an example of a person who stands between the two contradictory demands. Rabbi El'azar accuses him of hypocrisy with the claim that he cannot overcome his desire.<sup>36</sup> This Talmudic discourse teaches that fulfilling man's obligations to God should not justify avoiding natural life activities. In this context, the image of God, as the element that distinguishes man from animals, means overcoming natural desire – whether the lust is for spirituality or not. Rabbi El'azar's criticism of Ben-Azzai implicitly connects the image of God with man's ability to exhibit hypocrisy, which can be seen as an element that differentiates between man and animal.<sup>37</sup>

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<sup>34</sup> See Kaufmann 1954, vol. 2, p. 730.

<sup>35</sup> Tosefta Yevamot 8:7 (compare BT Yevamot 63b), quoted after Boyarin 1993, p. 134.

<sup>36</sup> See Boyarin 1993, pp. 134-135.

<sup>37</sup> See Sebeok 1986, pp. 126-130; see also Buber 1953, p. 7.



## Responsibility beyond God's image

Noah's story raises further questions related to the moral status of animals. In the flood, God punished all animals like humans, saving only one couple of each species, just as saving only one human family. It raises a moral problem. The flood came as a punishment for human actions. Why then were the animals also punished? The sages tried to rationalize this with the verse »for all flesh had corrupted its ways on earth« in Gen 6,12, that is, not only man sinned. The animal's corruption was expressed in the act of adultery between the different species.<sup>38</sup> After the flood, God made a covenant with man and with all animals: »God further said, this is the sign that I set for the covenant between Me and you, and every living creature [...]«<sup>39</sup>; a covenant that is mentioned in various places in the Bible,<sup>40</sup> and is embodying the view that both man and animals deserve moral consideration.

There are other verses in the Bible where the animals are described as responsible for their actions and are commanded with duties like man. For example, the prohibition to climb or touch Mount Sinai was given to humans and animals in Ex 19,12-13. In the story of Nineveh God tells the prophet, Jonah, that he will spare the city because of man and beast.<sup>41</sup> According to the biblical narrator there, even the animals expressed remorse: »They shall be covered with sackcloth – man and beast – and shall cry mightily to God. [...]«<sup>42</sup> Those verses express the biblical approach that animals are responsible for their actions.<sup>43</sup>

However, in Noah's story permission to eat animals was given for the first time. The permission came with a restriction: a prohibition on eating the flesh with its blood in it (Gen 9,3-4), which was understood as a ban on taking an organ from an animal without killing it first. The obligation to kill the animal before eating it is also repeated in Deut 12,23, and commentators see it as an imperative aimed at educating man to avoid cruelty.<sup>44</sup> There are many other commandments dealing with animals

<sup>38</sup> See Genesis Rabbah 28,8, and Rabbi Shlomo Yitzchaki (Rashi) on Gen 6,7.

<sup>39</sup> Gen 9,12.

<sup>40</sup> See Hos 2,20, and Ps 36,7.

<sup>41</sup> See Jon 4,11.

<sup>42</sup> Jon 3,8.

<sup>43</sup> See Sapontzis 1980, pp. 45-52.

<sup>44</sup> See, e. g., Maimonides 1963, vol. 2, pp. 598-601.

(hereafter), but it is customary to regard Noah's laws as being given to all Humanity, unlike the 613 commandments which were given to Jews only.

To sum up this part, it should be noted that in the Bible many verses are expressing God's concern for all animals: »The LORD is good to all, and His mercy is upon all His works.«<sup>45</sup> If the Jew is commanded to walk in God's way, this means having concern for all animals. Martin Buber, the founder of the philosophy of dialogue, writes: »The man who loves God loves also him whom God loves. [...] Both love of the Creator and love of that which He has created are finally one and the same.«<sup>46</sup> This means that there should not be a conflict between our approach to humans and that to animals. A father who cares for his son more than



**Abb. 8:** Edward Hicks (1780-1849): Noah's Ark. Oil on canvas. 66,8 × 77,2 cm. 1846. Philadelphia Museum of Art.

<sup>45</sup> Ps 145,9; see also Ps 104,18; Ps 104,21; Ps 104,27; Job 38-39.

<sup>46</sup> Buber 1967, pp. 208-209.

for other children does not act unethically. He has certain responsibilities towards his son that he doesn't have towards other people's sons and daughters. Similarly, we have obligations to humans which we do not have to animals. Therefore, we should not use animals the way we want without any limits, so that the ruler will not become a tyrant.<sup>47</sup> Animals, like everything else, are God's creation. And even though they are condemned to be ruled by man, he has also his obligations to them. Many places in the Bible and the Halakhic literature teach how to apply this ruling properly and humanely.

## Animal rights – a short introduction

Until very recently, ethical philosophy discussed only the problems of man and his moral status. In the past, no philosopher or theologian dealt with the status of animals from a moral point of view. The attempt to clarify what distinguishes man from anything else in the world has led to a division, whereby humans are ›persons‹ and everything else are ›things‹. In the mid-17th century, René Descartes argued that »a thinking soul« cannot be proven to be found in animals.<sup>48</sup> For him, animals were just machines incapable of thinking or feeling. The possibility of self-realization (*cogito ergo sum*) exists only in humans, only man is rational, therefore only man is morally responsible. The view that animals are ›things‹ that are essentially distinctive from humans does not coincide with the premise of sequence in nature, which became the foundation of natural science since Darwin's theory of evolution in the mid-19th century.<sup>49</sup> However, Descartes's view was, in one way or another, more or less extreme, accepted by most philosophers. From the 1970s to the present, the literature on the subject has been expanding. Among contemporary theorists, Descartes's and Kant's philosophies are

<sup>47</sup> Levy/Levy 2002, p. 47; see also Donaldson/Kymlicka 2011, pp. 50-69.

<sup>48</sup> In his »Letter to More« from 1649 Descartes writes: »[...] we cannot at all prove the presence of a thinking soul in animals. [...] These natural automata are the animals. [...] It is much more wonderful that a mind [cogito ergo sum] should be found in every human body than that should be lacking in every animal« (Descartes 1970, pp. 61-62).

<sup>49</sup> The philosophical importance of Darwin's approach is the elimination of purposefulness from biology. That is, there is no ›planner‹ who created all the organisms to fit their environment. Seemingly, this approach can serve as a starting point for including animals in the field of moral concern, because there is no guarantee of survival of a particular species. However, the conclusions of his approach, as developed by its successors, that a war exists between species in which the adequate species survives, removed animals from the field of moral concern: man's supremacy in the sequence of evolution seemed absolutely legitimate.

seen as a significant factor in the modern attitude to animal rights.<sup>50</sup> Kant, following Spinoza,<sup>51</sup> indeed argued against Descartes that animals are not merely machines. However, in his approach, only humans are *ends in themselves*. He writes: »Animals are not self-conscious and are there merely as the means to an end. That end is man. [...] Our duties towards animals are merely indirect duties towards humanity.«<sup>52</sup> Man is being asked to treat animals fairly only so that he will not become cruel in its relationship with other humans.

Arthur Schopenhauer, one of the forerunners of the modern view of animal rights, rejected Kant's notion that duties to animals are only indirect duties to humankind. Schopenhauer castigated religious systems for failing to appreciate the profound similarities that humans share with animals and therefore for failing to take moral account of them. In a provocative comment, he writes that the denial of animal rights is »revoltingly crude, a barbarism of the West, the source of which is to be found in Judaism«<sup>53</sup>. And, »It is time to put an end to the Jewish conception of nature, at least as far as animals are concerned, and acknowledge the eternal essence that exists in us and animals, protect this essence and respect it.«<sup>54</sup> It is to be regretted that Schopenhauer saw Judaism as a source of alienating attitudes toward animals.

### *The suffering of living creatures in Judaism*

Contrary to Descartes's claim that animals are automatic and do not feel pain, in Jewish teaching, there is no doubt that animals feel physical and mental pain, and that we should try to prevent and minimize their suffering. The term ›suffering of living creatures‹ (*ša'ar ba'alei hayim* or *tza'ar ba'alei chayim* as the Hebrew expression of compassion for animals and the rejection of cruel behavior toward them) is an ancient term, first appearing in this formulation in the 3rd century AD, in the Talmud.<sup>55</sup> Jewish tradition is meticulous with animal suffering,

<sup>50</sup> See Rollin <sup>1</sup>1981/2006, pp. 33-142.

<sup>51</sup> See Spinoza's *Ethics* (1677) in Spinoza 2002, p. 340. Spinoza's influence on German thought is well known. Spinoza has influenced Immanuel Kant, Johann Gottfried Herder, Georg Wilhelm Friedrich Hegel, Moses Mendelssohn, Friedrich Schleiermacher, Albert Einstein, and many others.

<sup>52</sup> Kant 1963, p. 239; see also Callanan/Allais 2020.

<sup>53</sup> Schopenhauer 1995, p. 175; see also Schopenhauer 1969, vol. 2, p. 645.

<sup>54</sup> Quoted after Levy/Levy 2002, p. 46.

<sup>55</sup> See BT Bava Metzia 32b, and elsewhere.

and especially regarding domestic animals. Compassion has always been considered one of the key concepts of Judaism; Samuel David Luzzatto (d. 1865), known by his Hebrew acronym Shadal, saw it as one of the three foundations on which Judaism is based, and for him compassion also applies to man's attitude to animals.<sup>56</sup> Many verses in the Bible deal with how animals should be treated and are further interpreted in the Halakha and the Aggadah.<sup>57</sup> The goal of educating man for compassion and against cruelty is common among biblical commentators and their understanding of the different verses and commandments related to animals.

Animals are of great importance in the sources of Judaism and are mentioned in the prophecies and poetry.<sup>58</sup> All the key leaders of Israel were presented in the words of the prophets as shepherds. This is said of Joshua (Num 27,17), and the Messiah (Ezek 37,24). Moses is called »the faithful shepherd«, and according to the Midrash he was chosen to lead the people of Israel only after proving his thoughtfulness for animals: »The Holy One said, ›Since you tend the sheep of human beings with such overwhelming love – by your life, I swear you shall be the shepherd of My sheep, Israel.«<sup>59</sup> Even God himself is supposed to be described as a shepherd of the people of Israel: »The LORD is my shepherd; I lack nothing.«<sup>60</sup> The description of the leader as a shepherd stems from the responsibility that shepherds have towards the animals under their care. Balaam, on the other hand, was condemned for beating his donkey.<sup>61</sup> This story is a prime example of ›animal suffering‹ in ancient times.<sup>62</sup> One of the most famous examples in the Talmud which emphasizes the moral aspects of ›animal suffering‹, is the story of Rabbi Judah the Prince, the chief redactor and editor of the Mishnah. When a calf, led to slaughter, fled and sought shelter in his lap, Rabbi Judah dismissed him by saying: »Go, as you were created for this purpose«. On behalf of this indifference to the calf's suffering, Rabbi Judah was punished: »It was said in Heaven: Since he was not compassionate toward the calf, let

<sup>56</sup> See Luzzatto 1913, p. 19, and Luzzatto 1880, ch. 21-22.

<sup>57</sup> See Cohen 1976; Slifkin 2006; Eshkoli 2002.

<sup>58</sup> See Berkowitz 2018; Schroer 2010.

<sup>59</sup> Exodus Rabbah 2,2.

<sup>60</sup> Ps 23,1; see also Isa 40,11.

<sup>61</sup> See Num 22,28.

<sup>62</sup> See Shemesh 2018.

afflictions come upon him.« He was granted forgiveness only thirteen years later, after he had compassion for wild animals.<sup>63</sup>

An important commandment designed to prevent animal suffering, which has received many Halakhic debates, is the commandment: »When you see the ass of your enemy lying under its burden and would refrain from raising it, you must nevertheless raise it with him.«<sup>64</sup> Maimonides referred to this rule in his Halakhic literature, adding that it also applies to the animal of non-Jews.<sup>65</sup> It is a divine law not only to refrain from inflicting unnecessary pain on any animal, but also to help and, when you can, to lessen the pain whenever you see an animal suffering even not through your own fault. This law can be understood as an extension of the law: »You shall not stand by the blood of your neighbor«<sup>66</sup>, which is an explicit prohibition of being indifferent to one's suffering.

In a Talmudic discussion on how to help an animal who has fallen into a water pit on Saturday (Shabbat), the rabbis conclude that the commandment to prevent animal grief is from the Bible and not from the rabbinic sages; and therefore, the assistance to get the animal out of the pit, even if it involves the cancellation of rabbinic commandments regarding the Shabbat, is unquestionable. As Raphael Hirsch (d. 1888), the founder of neo-Orthodoxy in Germany, writes: »The law also sets a suffering animal on the same level of a non-seriously ill person as far as work on Shabbat and Festivals is concerned, in that certain types of work are permitted in order to help them.«<sup>67</sup> In the Talmud (Shabbat 117b), redeeming an animal from suffering is considered a greater reason for desecrating a Sabbath than a desire to prevent personal loss. For example, this is the law for milking a cow or a goat: there is a duty to milk them on Saturday to prevent their irreparable bodily harm. However, this milk must not be used. In Levy's view, this law combines indirect and direct obligations toward the animals.<sup>68</sup>

Jewish tradition is very meticulous in Biblical laws. There are plenty of biblical imperatives which relate to what is now called animal rights. In the description of the Shabbat rest in the Decalogue, there is an explicit

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<sup>63</sup> See BT Bava Metzia 85a.

<sup>64</sup> Ex 23,5.

<sup>65</sup> See Mishneh Torah, Murderer and the Preservation of Life, ch. 13:8-9, 13:13.

<sup>66</sup> Lev 19,16.

<sup>67</sup> Hirsch 2001, p. 263.

<sup>68</sup> See Levy/Levy 2002, p. 64. See also Eshkoli 2002, p. 563.

reference to household animals, which goes beyond grief prevention and demonstrates a positive attitude. On Saturday everyone should rest, including the animals (Ex 20,10). This law is mentioned several times in the Bible, e. g., in Deut 5,14, and Ex 23,12: »Six days you shall do your work, but on the seventh day you shall cease from labor, in order that your ox and your ass may rest, and that your bondman and the stranger may be refreshed.« According to this verse, the same moral law applies to man and animal. Slaves, maidservants, and even strangers were included in the same category as animals because in those days they were all ›property‹. The laws of the sabbatical year refer not only to livestock but also to wildlife: »but in the seventh you shall let it rest and lie fallow. Let the needy among your people eat of it, and what they leave let the wild beasts eat. You shall do the same with your vineyards and your olive groves.«<sup>69</sup> Behind the laws of the sabbatical year and the laws of tithes (Lev 25) stands the idea that everything belongs to God, and man has no permanent ruling over things. Man's temporality, seen against God's kingdom over all things, is supposed to diminish the freedom that man has in exploiting animals and the environment.<sup>70</sup> The verse »I will also provide grass in the fields for your cattle – and thus you shall eat your fill«<sup>71</sup> has been understood by the rabbinic sages as the prohibition to eat before feeding the farm animals: »Rav Yehuda said that Rav said: One is prohibited from eating before feeding his animals, [...].«<sup>72</sup> Drawing on this, the Jerusalem Talmud declares that a person must not buy an animal if he cannot make sure he can provide her food.<sup>73</sup> The commandment »You shall not muzzle an ox while it is threshing« in Deut 25,4, which is a prohibition of preventing animals from eating during their craft (whether by a physical barrier or by shouting at the animal), was understood by some commentators as gratitude for the animal's service, as well as an explicit prohibition of cruelty towards the animals. The commandment »You shall not plow with an ox and an ass together« in Deut 22,10 was interpreted by the Halakhic commentators as preventing animal grief because »[...] as one is far stronger than the other, it would be causing the donkey pain [...]«<sup>74</sup>.

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**69** Ex 23,11.

**70** See Belkin 2001, pp. 251-258.

**71** Deut 11,15.

**72** BT Berakhot 40a.

**73** See JT Yevamot 78a:3, and JT Ketubot 29b:1.

**74** Chizkuni on Deut 22,10.

The well-known prohibition »You shall not boil a kid in its mother's milk«, which appears three times in the Bible in the same way,<sup>75</sup> indicates the great importance that is attributed to it. According to commentators, the purpose of this commandment is to prevent cruelty to animals.<sup>76</sup> The prohibition »no animal from the herd or from the flock shall be slaughtered on the same day with its young«<sup>77</sup> was understood in the same way, as well as the commandment »sending-away the nest« in Deut 22,6-7.<sup>78</sup> The first meaning, which is common to these three prohibitions, is that capturing, slaughtering, and cooking parents and offspring of animals must not be at the same time. According to commentators, the reason is the prevention of parental grief, which exists in both humans and animals,<sup>79</sup> as well as education for compassion and avoidance of cruelty.<sup>80</sup> The uniqueness of the commandment ›sending-away the nest‹, which Maimonides counts in the 613 biblical commandments, is that it is given the same reasoning as the sixth commandment of the Decalogue »Honor your father and your mother«. It is the only law in the Decalogue that has an explanation. In both commandments, the same reasoning appears: »[...] that you may long endure, and that you may fare well, [...].«<sup>81</sup> The protection of the mother-bird and respect for human parents are both strengthened by ensuring a reward, in exactly the very words. The moral-educational value is undeniable, but does the Bible not differentiate between more important and less important commandments? One of the answers to this is in the Orthodox view that all commandments are equally binding, regardless of their content or moral value, because they are divine imperatives. However, this does not explain why in both of these cases a promised reward is emphasized. Another possibility is that the similarity between the sixth commandment and the commandment ›sending-away the nest‹ is intended to prove the humanity of the Bible, which also goes beyond the human race and is aimed at preventing the extinction of species. The commandment »not to castrate any male whatsoever«<sup>82</sup> is also intended to prevent the

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<sup>75</sup> See Ex 23,19; Ex 34,26; Deut 14,21.

<sup>76</sup> See Nachmanides on Deut 14,21, and Ibn Ezra on Ex 23,19.

<sup>77</sup> Lev 22,28.

<sup>78</sup> See Slifkin 2010; see also Krochmalnik 1991, pp. 23-28.

<sup>79</sup> See, e. g., Maimonides 1963, vol. 2, p. 599.

<sup>80</sup> See Nachmanides on Deut 22,6.

<sup>81</sup> Deut 5,16.

<sup>82</sup> Maimonides in Mishneh Torah, Negative Mitzvot 361, based on Lev 22,24.



extinction of species.<sup>83</sup> Abraham Ibn Ezra interpreted the commandment of ›sending-away the nest‹ as being aimed at preventing cruel behavior, and the reward is based on the Biblical principle ›measure for measure‹: Just as man must compassionate the nest and its inhabitants and in such a way to care for the preservation of nature, so will God have mercy on him and maintain his existence.<sup>84</sup>

The prevention of animal grief in Judaism is primarily aimed at the moral education of man. It is indeed a biblical demand and not a rabbinical one, however, it is not perceived as a general law, but rather as interpretations of various commandments and verses. Most of the Talmudic sages saw these laws as specific duties and not as an expression of a more general duty. It would be a mistake to conclude that the concern for preventing animal grief in Judaism is based on a legal concept of animal rights or that animals have legal status. However, the attitude toward animals is implied by God's will. God has made a covenant with animals and cares for them, and this is the theological foundation for man's responsibility. The demand to love everything that is created is endless and should lead us to lay down a new foundation for the ethical discourse regarding animals.

## Judaism and vegetarianism

Although there were some vegetarian Jewish sects in ancient times, Judaism does not rule out eating the meat of kosher animals<sup>85</sup> after a kosher slaughter.<sup>86</sup> During the wanderings of the Israelites in the desert, the slaughter was allowed only for sacrifice, and after entering the country, the ban on slaughter for non-sacrifice purposes was canceled.<sup>87</sup> From the beginning of the 19th century, movements seeking to forbid Jewish slaughtering were active in Europe, claiming that it is cruel and opposing the requirement of modern law to prevent the suffering of animals. For the greater part, anti-Semitic elements were involved in these movements as well. The hypocrisy of these movements was expressed by opposing Jewish slaughter for its supposed inhumanity, while at the same time not

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**83** See also Sefer ha-Chinuch 291:1.

**84** See Ibn Ezra on Deut 22,7.

**85** See Kosman/Pinkas 2019, pp. 1081-1083.

**86** See Rabinowicz 2007, vol. 18, pp. 434-435.

**87** See Schwartz 1999, pp. 91-94.

condemning animal hunting for sport.<sup>88</sup> During the second world war, slaughtering was forbidden in all Nazi-occupied countries. Nowadays, slaughtering is banned in some countries, claiming that it is a cruel killing method. Some Rabbinic organizations, often backed by researchers who are willing to support their position, maintain that this is mistaken since, in their understanding, slaughtering is performed very fast and causes minimal pain.<sup>89</sup>

However, meat presents an »ethical problem both because it ends an animal's life, and God »did not create His creatures to die« (Midrash Aggadah to Genesis 1:29), and because killing poses a threat to human moral development.«<sup>90</sup> In this way, the first ethical obligation concerning eating animals is restraint, as Peli writes: »[...], the laws of kashrut come to teach us that a Jew should prefer a vegetarian meal.«<sup>91</sup>

Vegetarianism has experienced a revival among twentieth-century Jews, for example by Rabbi Abraham Isaac Kook, Isaac Bashevis Singer, and Rabbi Arthur Green.<sup>92</sup> Outstanding in his approach is Kook (d. 1935) who was the first Ashkenazi Chief Rabbi in Mandatory Palestine (1921-1935). In his »vision of vegetarianism and peace« he theologically established the relationship between the ideals of vegetarianism and the messianic times. In the Talmud it is written that God allowed humans to eat meat only after the flood.<sup>93</sup> Kook adds to the sage's opinion that it was permitted due to the moral decline of the generations – it is a matter of »moral concession«<sup>94</sup>. The Bible did not forbid eating meat because a gradual moral development of the human race is required. Only after humanity will resolve the problem of hostility and wars within them, a higher level which includes a moral behavior towards animals will be also achieved. As soon as humans will find meat eating repulsive, it will be clear that the Bible forbids it, just like the prohibition on eating impure meat. In the future, says Kook, the behavior of humans towards animals will not be the result of compassion or »righteousness of renunciation« but it will be a clear and firm decree.<sup>95</sup>

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**88** See Levy/Levy 2002, p. 54.

**89** See Gilman 2006, pp. 94, 256 fn. 25; see also Gurtman 2005.

**90** Gross 2013, p. 426.

**91** Peli 2005, p. 118.

**92** See Bleich 1987, pp. 82-90.

**93** See BT Sanhedrin 59b, based on Gen 1,29-30.

**94** Kook <sup>1</sup>1961/1983, section 10.

**95** See Kook <sup>1</sup>1961/1983, sections 12, 29-32.

## Concluding remarks

To conclude, I would like to offer one historical solution to the question: Why is the moral attitude toward animals not central in the ethics of modern Jewish philosophers?

Jewish philosophy evolved from an encounter with the external cultural environment. In modern times, from Moses Mendelssohn through the movement of *Wissenschaft des Judentums* until the present day, Jewish thinkers were confronted mostly with Christian culture and the tradition of Western philosophy. To stress the correlation between Judaism and Christian humanistic values, Jewish thinkers highlighted the Bible, and especially the prophets' writings, and less so the Talmud.<sup>96</sup> Jewish philosophers operating in Europe at the end of the nineteenth and early twentieth century, such as Hermann Cohen, Leo Baeck, Franz Rosenzweig, Martin Buber, and Abraham Heschel, regarded the prophets' writings, with their moral and universal character, as embodying modern humanism. In my humble opinion, the way the prophets treat animals, and not the Halakhic literature, had a great influence on Jewish philosophy.


When the prophets condemned the offering of animal sacrifices, they did not refer to the sufferings of the sacrificial animals, but criticized the view, prevalent in those times, that by offering sacrifices to God, humans could atone for their immoral deeds.<sup>97</sup> Despite their pursuit of justice, the prophets were not guided by ›animals' suffering‹. Many interpret the well-known words »The wolf shall dwell with the lamb [...]; And the lion, like the ox, shall eat straw«<sup>98</sup> only as a *poetic allegory* for the longing for an era when justice and peace will prevail on earth, and not as a theological basis for attitude toward animals.

However, in the modern Jewish philosophical tradition, we find some foundations that allow the extension of the *moral monotheism* to animals and nature. It is to be hoped that with the growing contemporary interest in the attitude towards animals and their moral status, we will see more

<sup>96</sup> Emmanuel Levinas is exceptional because he also addressed the Talmud in his philosophy. However, as a Shoah (Holocaust) survivor, he focused on cultural ethics and did not take the challenge of animal ethics seriously. See Ben-Pazi 2018, pp. 9-41. And see also Sözmen 2015, pp. 769-791.

<sup>97</sup> See Isa 1,11; Jer 6,20; Amos 5,22-24; Hos 8,13; Mic 6,8 and more.

<sup>98</sup> Isa 11,6-7; see also Isa 65,25.

theo-ethics and theo-ecology studies that relate to the animal out of direct moral responsibility. 

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