

# Government Regulations of *Shechita* (Jewish Religious Slaughter) in the Twenty-First Century: Are They Ethical?

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Accepted: 1 July 2011 / Published online: 15 July 2011  
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**Abstract** Human beings have engaged in animal husbandry and have slaughtered animals for food for thousands of years. During the majority of that time most societies had no animal welfare regulations that governed the care or slaughter of animals. Judaism is a notable exception in that from its earliest days it has included such rules. Among the Jewish dietary laws is a prohibition to consume meat from an animal that dies in any manner other than through the rigorously defined method of slaughter known as shechita. In recent decades more and more attempts have been initiated by governments around the world to either outright ban or to control and modify the practice of shechita. This paper presents the requisite background about shechita and then analyzes the ethics of some of the recent legislation. The analysis includes a rebuttal of the assertion that shechita is an inhumane method of slaughter. It further presents the consequences on the Jewish community of legislation to impose pre-slaughter stunning and explains why such legislation is unethical. The actual effect of labeling laws is discussed and it is shown why such laws are also unethical.

**Keywords** Animal welfare · Ethics · Government regulations · Religious slaughter · Shechita

## Introduction

Human beings have historically maintained animals for food production, labor, and companionship. Human consumption of animal flesh is attested to in the Bible, in the historic record, and even archeological finds, although according to the Bible the very earliest humans appear to have been herbivores (Genesis 1:29), as are some

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primates, and only later were they permitted to consume flesh (Genesis 9:2–4). Today, there are a not insignificant number of vegetarians, but that number pales in comparison to meat eaters and most humans will continue to eat the flesh of other animals. Thus, unless humans restrict themselves to already dead animals, killing animals is to be expected of all human societies, which then must grapple with the control of such activities. These realities have (or should have) dictated that man develop standards of how to relate to animals as well as a method of properly killing them.

Human history and the Bible also portray humans as being dominant over other life forms. While it is rare to find one species being the master over another, although such examples do exist in nature, humans have for millennia maintained domesticated animals selected from the local fauna, be it sheep, goats, cattle, camels, horses, llama, water buffalo, elephant, or yak, to perform their labor, provide products for food and materials while alive, and for consumption once dead or killed. In exchange the humans provided for or arranged for all or most of the animal's needs.

The husbandry of animals necessitated long term, continuous, interaction between humans and animals, while the consumption of animal flesh meant that humans were involved in hunting and killing non-domesticated animals and killing domesticated animals. Depending on the locale, the species killed included land animals, birds, insects, fish, and other sea life. For a large part of human history for a majority of the world's population, humans also killed animals for ritual purposes as offerings to higher beings. These activities also should have led to the development of what we today refer to as animal welfare standards of how to relate to these animals while alive and how to slaughter them.

All of the above relates to human history over many millennia and over the expanse of our planet; I want to focus on the situation for the last 2,000 years in the so-called Western world. There, the dominant religion was various forms of Christianity, with a minority of Jews. Animal sacrifice amongst both Christians and Jews during this period did not exist, and thus animals were killed predominantly for food. The Christian Church accepts the Old Testament, which is replete with animal welfare regulations and includes some animal welfare statements, and the notion that God expects responsible stewardship as found in the New Testament (e.g., Luke 14:5 that one should violate the Sabbath to save an ox from a well and I Corinthians 9:9 and I Timothy 5:18 that reference the Law of Moses about not muzzling an ox while it is threshing grain), yet in practical terms they seem to have had no specific rules governing how animals should be treated while alive or how they should be killed. Nor were such laws legislated by local civil authorities where such existed. Living within this Christian majority was a barely tolerated Jewish minority that was often subjected to expulsions, inquisitions, pogroms, and other anti-Semitic decrees. Throughout this time, the Jews discussed and implemented regulations mandating humane treatment of animals while they were alive and specific laws governing how animals should be killed (Zivotofsky 2010). Similar standards did not become common in the West or in other countries until, at best, the last couple of 100 years.

## Jewish Dietary Regulation with Respect to Animal Usage (in a Nutshell)

Shechita is the means by which animals (mammals and fowl) must be killed for their meat to be permitted for consumption according to halacha (Jewish law). Historically, shechita was carried out on the local level and was tightly regulated by the communal rabbinic court, which guaranteed the attention to both the specific, technical details involved in shechita and the broader issues of concern for all living beings as codified in halacha.

The practitioner (shochet) and the implement used for slaughter are two of the most important aspects of shechita. In theory, any adult Jew may be a shochet, but in practical terms, for well over 1,000 years only those who received a “license” from the community were permitted to perform shechita. Attaining such a license requires years of training, both religious and practical, and it is granted only to upstanding individuals, resulting in the position being one that is widely respected within the community. In non-kosher abattoirs, both historically and today, the job of a slaughterman is often a low paid, unskilled, and little respected position, while in a kosher plant the shochet is the top of the totem pole, commanding both respect and a respectable salary.

The implement used is also significant. Shechita must be carried out using a special knife (chalaf) that is perfectly smooth with no nicks or serrations, such that the incision is as painless as possible. In addition, the knife should be razor sharp and twice the length of the intended animal’s neck. The knife must be inspected carefully by running the blade along the finger nail before and after the shechita to ensure that these regulations were complied with during the cut. If a nick is found in the knife even post-cut, the animal may not be consumed. Any discussion of the merits (or flaws) of shechita must take the qualities of the knife into consideration, and experiments or evaluations of supposed religious slaughter that fail to do so are by definition flawed.

There are numerous details to the laws of shechita that literally fill volumes of legal texts, but the method can be concisely summarized as: Death by exsanguination as a result of the severing of the principal blood vessels of the neck by a continuous cutting motion using an acceptable implement by a qualified practitioner. Thus, the slaughter of an animal that renders it fit for consumption according to Jewish law involves a highly qualified and extensively trained religious functionary incising a significant portion, but not all, of the animal’s throat using an exquisitely sharp and perfectly smooth knife that results in a near painless cut and through which a river of blood flows out leading in short order to unconsciousness followed by death. The cut is intended to achieve rapid bleeding and therefore needs to reach the major vessels, but it may not be so deep that the knife touches the spinal column. The tissues cut usually include skin, long hyoid bone muscle, trachea, oesophagus, both jugular veins, both common carotid arteries, both trunci vagosympathici, both nervi recurrentes, both trunci jugulars, and parts of the long throat muscle. Studies have shown (See Rosen 2004 for details) that blood loss is extremely rapid, with 1/3 of the total volume lost within half a minute. The rapid fall in blood pressure in the brain was associated with loss of consciousness within seconds.

The production of kosher meat entails more than the method of slaughter. Jewish dietary laws dictate that subsequent to the shechita, an inspection be performed by a specifically trained religious person, the bodek, to detect and reject any treifot, i.e., animals that suffer from any of a number of physical maladies enumerate in great detail in the religious codes. Thus, for example, animals found to contain lung adhesions, perforated reticulums, or broken femurs, or chickens with thickened or ruptured leg tendons, may not be eaten even if properly slaughtered. It is worth noting that many of the conditions that are categorized as treifot are not dangerous if consumed by humans and would pass a veterinary inspection. Nonetheless, a consumer who has fidelity to the code of Jewish law will not consume meat from such an animal. These animals with treifot are sold by the kosher slaughter houses to the general markets, resulting in some kosher slaughtered meat reaching the general population.

Furthermore, Jewish law categorically forbids certain parts of the animal. These include the blood, sciatic nerve, and certain fats found primarily in the hindquarters of the animal. If these prohibited sections are not excised, the meat may not be consumed. This removal is performed by specially trained practitioners called “porgers.” In the course of the last century fewer and fewer people have learned this difficult, tedious procedure, with the result being that other than a small percentage of kosher meat slaughtered in Israel, in lieu of porging the hindquarters are sold on the non-kosher market, again resulting in a small quantity of meat from kosher slaughtered animals reaching the general market.

In summary, for Jews to eat meat they must have available kosher species that they may slaughter according to their ancient rite. Furthermore, for the meat to be affordable, it is important that there be a market willing to absorb the animals that pass governmental veterinary inspections but are treifot as well as the hindquarters of the kosher animals. The absence of any of these factors will limit or eliminate the possibility for Jews to consume meat. These components have at times been unavailable due to local antagonistic or malevolent governments. Such attacks cannot be rebuffed with rational or ethical arguments, and that is not what is being addressed here. In more recent history, access to kosher meat has been denied or made extremely difficult by seemingly well-intentioned legislation designed to advance animal welfare and/or better inform consumers but that had secondary, foreseen or unforeseen, consequences that seriously compromised the religious freedom of the Jewish population. It is that legislation that is addressed herein.

### **Arbiters of Jewish Religious Law**

While thousands of years ago Jews had prophets, kings, and a supreme court known as the Sanhedrin, for the last two millennia the situation has been that there is no one supreme Jewish authoritative individual or institution. Thus, Jewish law is decided on a local level by community rabbis in response to queries they receive. The most respected of these authorities publish their responses resulting in a literature of case law that then serves as non-binding precedents and food for thought for the next generation of rabbinic decisors. Because of the diffuse nature of this process,

answers may sometimes differ between locales, although usually within a short period of time a consensus position has been reached.

These local authorities have traditionally overseen all aspects of Jewish communal life including the provision of kosher meat. They did this by licensing the *shochtim*, *bodeks*, and *porgers*, and regularly overseeing them, including mandatory testing of the *shochet's* knife on a regular basis. In the modern era with the advent of global communication, this paradigm for legal decisions still holds, but with more rapid knowledge of alternative positions, often times resulting in a quicker coalescence to a consensus.

Two issues related to kosher slaughter that are relevant to recent secular religious slaughter regulations have received attention from the religious authorities in recent decades. These are the acceptability of pre-slaughter stunning and the advisability of *porging*.

The issue of pre-slaughter electrical or mechanical stunning was obviously only discussed by rabbinic authorities once secular governments sought to legislate it. Government attempts to impose a requirement of pre-shechita stunning go back to at least the 1860s and have been in general regarded by the rabbis as unacceptable for a variety of reasons. Those early laws were promulgated in jurisdictions with small Jewish populations, such as in 1893 in Switzerland, and thus did not arouse widespread discussion. The issue came to the fore when shortly after coming to power, Nazi Germany banned shechita of animals in Germany unless they were first stunned.<sup>1</sup> This was the first instance of banning shechita in a jurisdiction in which there was a large Jewish population and it led to a great deal of rabbinic discussion and writing and demonstrated the effect of such legislation. Whether this was purely anti-Semitic or also included a genuine animal welfare component is immaterial; it meant that the 500,000 Jews in Germany would either have to forgo all meat, pay the price to import meat, or permit shechita according to the Nazi regulations. Some German rabbis, foremost among them Rabbi Jehiel Jacob Weinberg of Berlin, valiantly searched for such permission within the Jewish legal codes. They scoured the sources, conducted scientific experiments to determine the effect of the prevalent stunning methods, and sent delegations to consult with the leading eastern European rabbis. Some rabbis reluctantly expressed a willingness to consider sanctioning such slaughter under the dire circumstances they were facing (note that there were no rabbis who viewed it as an acceptable means under normal conditions). However, rabbinic opinion quickly coalesced around “no” to any form of pre-shechita stunning even under the Nazi regime, and the community as a whole was willing to forgo meat.<sup>2</sup> And once there was a consensus that pre-slaughter stunning was unacceptable, there is today no dissent and there are no known mainstream rabbinic authorities who will permit stunning prior to shechita under any circumstances.

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<sup>1</sup> In Poland such a ban was enacted in 1936 and then subsequently in each region as it fell to the Nazi war machine: Danzig in 1939, Belgium, Slovakia, and Luxemburg in 1940, Alsace in 1941.

<sup>2</sup> Literally hundreds of pages in tens of volumes have been written to explain the two sides of this issue. This includes over 200 pages in the first volume of Weinberg's *Sridei Eish*. A short summary of the issue can be found in: Sassoon (1955).

Within the last year New Zealand (temporarily) banned all slaughter without prior stunning and Holland is mulling such a ban. The rabbis were again tasked with deciding how to react and the unanimous response was that pre-cut stunning cannot be allowed and the Jews of New Zealand will be unable to perform shechita. Some writers have pointed out that neither the Bible nor the Talmud mention a problem with pre-slaughter stunning. While this is true, it has been explained (Levinger 1995) that this is irrelevant as stunning did not exist at the time. Many recent authorities do address the issue and for a variety of reasons prohibit meat from pre-stunned animals. One of the most significant of these authorities was Rabbi Yitzchak Yaakov Weiss (1902–1989) in his 9-volume collection of response *Minchat Yitzchak* (2:27). Rabbi Weiss was originally Hungarian but later for 20 years headed a rabbinical court in England, and after he retired from that headed one of the most significant rabbinical courts in Jerusalem. His responsum about stunning is a dense work that is packed with citations and precedent, and is meticulously argued. Rabbi Weiss sifted through the Talmud and found two relevant discussions. The Talmud discusses medicinally induced sleep as well as drugging convicts before execution. Rabbi Weiss argues that the prohibition of causing pain to animals is of such paramount import that that if such drugs were known at the time and it was permitted to do pre-slaughter stunning, the sages of the Talmud would have mandated it. And yet there is no suggestion in the Talmud or later sources that required or permitted the administration of these drugs to animals prior to slaughter.

He further finds a Talmudic account where the stunning of animals did occur. During the first century BCE (Before the Common Era) in the Temple in Jerusalem what was essentially captive-bled stunning of bulls was carried out and the rabbis quickly put a stop to this short-lived practice. After many other points and explanations and an exhausting discussion, Rabbi Weiss concluded that he strongly forbids stunning.

As summarized by Levinger (1995), the animal must be alive and healthy before slaughter, a questionable assumption post stunning, even for so-called reversible stunning. And the animals may not have any pathological-anatomical anomalies (treifot) and some such changes can occur as a result of stunning. Dr. Solomon Lieben, a leading Prague physician in the first half of the 20th century, carefully studied the effect of electrical stunning and found that it indeed caused treifot, some that were not immediately apparent (Munk and Munk 1976).

All of the above is to provide a taste of some of the rabbinic ruminations regarding stunning. It is, however, irrelevant as far as the ethics of legislative attempts as curtailing the religious freedom of kosher slaughter. Governments are not entitled to attempt to influence internal religious decisions and must accept the religious regulations as a package from the respective religious authorities. Whether they understand the internal dynamics of the halacha or not and whether they like the conclusion or not, this is the definition of shechita as understood and accepted by Jews.

The second issue that has received attention is porging. This tedious, difficult, and time consuming practice of removing the forbidden sections from the hindquarter is no longer practiced except in a few places in Israel. Instead the

entire hindquarter, which contains most of the forbidden fats (e.g., omental fat, perirenal fat, and mesenteric fat) and the sciatic nerve, is sold on the general non-kosher market. In theory, the hindquarters from kosher-slaughtered non-treifot can be porged and be made available to the kosher consumer. Because of the cost and difficulty involved, over the centuries it became customary to instead sell it to the local non-Jewish population. While there is no historical rabbinic ban on porging, the practice of selling the hind section has become so prevalent over the last century that there are very few trained porgers in the world and that number is steadily decreasing (Zivotofsky 2006). The paucity of expert porgers has led some modern rabbinic authorities to outright ban porged hindquarter meat and others to reiterate that porging may be done, but only by a true expert, and those are in short supply.

### **Renegade Practitioners and Non-Practicing Decisors**

The civil authorities have at times wavered in front of the Jewish community opinions or practices of individuals that appear to be at odds with the facts as stated above. Most notable are those instances of supposedly kosher slaughterhouses that practice pre-slaughter stunning or an individual rabbi who approves of such practices. It is important to reiterate that there is no central Jewish authority. There is no equivalent of the Vatican or the pope. Nonetheless, there are normative institutions and rabbis, and others who are deviant or renegade. If an institution's or movement's policy does not call for the observance of the dietary laws and does not recognize their binding nature, its proclamations regarding the laws of shechita are obviously of no significance. For the government or an interested NGO to quote the rulings of such institutions or their adherents is at best irrelevant and at worst an attempt at intentional deception. Unfortunately, this is not an uncommon occurrence and it is sad and unfortunate when the media or legislators are taken in by such actions.

So too an individual may at one point have been officially licensed as a shochet, but if he is later found to deviate from accepted practice he will, when possible, face sanctions from the organized community and his shechita will not be accepted. His positions do not represent normative standards. This is no different than a medical doctor who graduated from an accredited medical school, fulfilled all certification requirements and was duly licensed, but later begins to engage in practices that contradict the standards of care determined by the mainstream medical community. His previous education and licensure do not in any way attest to the acceptability of his current practices and positions if they are at odds with accepted standards. NGOs often will dig up such renegade shochtim and erroneously (or worse—deceitfully) present them as proof of the acceptability of some non-standard practice such as pre-slaughter stunning.

### **Recent Civil Legislative Efforts**

There are two principle types of legislation that have been promulgated in recent years that impact on kosher meat production. The first, that is already law in several

jurisdictions and is under consideration in several others, requires that all slaughter be preceded by an electrical, mechanical, or gaseous stun. Because all normative rabbinic authorities today prohibit pre-slaughter stunning, such laws essentially prohibit shechita and the production of kosher meat in those areas. The stated motivation behind these laws is usually that they are for the sake of animal welfare and that slaughter without using the approved methods of stunning is cruel. This is despite the fact that the scientific evidence is weak because, for example, data was collected without taking into account the quality of the knife and or the training of the slaughterman.

The second type of law now being considered by several governments, most significantly the European Union (EU) parliament, will greatly impact the availability of kosher meat. It is a “labeling law.” Here the stated rationale is that shechita will still be permitted but because it is a “less acceptable” method of slaughter, the consumer is entitled to know how the meat he is consuming met its death. Therefore any kosher slaughtered meat sold on the general market, such as treifot and hindquarters, will be labeled so that the consumer is aware that this animal was slaughtered by a religious method of slaughter.

The validity of the fundamental assumptions and ethics of these legislations will be discussed below.

### **Ethics of Stunning Regulations**

The claim is made that shechita is a non-humane method of slaughter and that by first “stunning” the animal with an electric shock, gas, or a severe blow, sometimes penetrating, to the skull, the pain and suffering the animal experiences are significantly reduced. This argument contains two separate components: that shechita is exceedingly painful and that the legislated stunning methods are effective at yielding a method superior, from an animal welfare perspective, to shechita.

The first premise is old, but has recently received what its supporters contend is new, incontrovertible support. First that study will be dealt with, and then other evidence will be cited. The New Zealand Veterinary Journal (NZVJ) published a series of four articles based on T.J. Gibson’s New Zealand-based doctoral research (Gibson et al. 2009a, b, c, d; Mellor et al. 2009). Gibson used the power spectrum of the EEG (electro-encephalogram—a measure of the brain’s electrical activity) as a probe to determine when calves felt pain.

In summary, what they showed was that slicing a cow’s neck yields an electroencephalogram (EEG) power spectrum that they claim is consistent with a painful stimulus. In other words, their conclusion is that slicing a cow’s neck such that huge amounts of tissue are severed, blood gushes forth, blood pressure (BP) drops, and perfusion of the brain is compromised, results in a change in the EEG that may (or may not) be an indicator of pain. Is that such a “novel” conclusion? Using such sophisticated tools to demonstrate this finding is like using surgical equipment to cut paper for a kindergarten project. If one uses a non-smooth (i.e., machine sharpened) short knife to slice open a cow’s throat, the cow’s brainwaves

will show indications of pain. This is less than surprising. But that says nothing about shechita, a procedure in which the cut is done with a specially sharpened, smooth, long (twice the width of the animal's neck) knife to minimize the pain felt by the animal. The training of the slaughterperson and the exact location of the cut is also not specified.

The Gibson study has zero relevance to shechita because the conditions he used did not mimic shechita in terms of the knife's size, sharpness, and smoothness (Grandin 2010). The NZVJ papers give no details about the knife other than that it was 10 inches and machine sharpened, and when directly confronted with that issue, Dr. Gibson did not try to claim that they were comparable to shechita knives (Gibson, personal communication; which makes one wonder why they would do this sort of experiment: actually the eventual claim was that it was a preliminary set of experiments to test the systems being developed!). Unfortunately, until he was directly challenged the supposed relevance of the Gibson studies to shechita was implied (including in some parts of the papers) and his data has been used ad-nauseum in anti-shechita statements and press releases and eventually by the New Zealand government itself in their justification for outlawing shechita. It is possible that cutting a cow's neck with a short, blunt, non-smooth knife is indeed painful, while a shechita cut may be significantly less so or even totally devoid of pain. Does the animal feel no pain? Might it even be a pleasurable feeling, e.g., are endorphins released? I don't know. But many people who have gotten a paper cut or who have been cut by a scalpel can attest to the fact that while the cut is taking place it is essentially not sensed and it is only later that the pain kicks in. And in the case of shechita, the animal will be senseless by that point. Dr. Temple Grandin on her website (<http://www.grandin.com/ritual/slaughter.without.stunning.causes.pain.html>) further analyzes some of the problems with these papers.

It may be that even if a Gibson-type experiment is done properly, i.e., with shechita knives, it will still "indicate" pain. That still does not imply that shechita is painful because the technique of detecting pain by taking the FFT (fast Fourier transform, i.e., the power spectrum) of the EEG is as yet not fully proven as a means of detecting pain. It is not at all clear what this EEG technique is really measuring, and while there have been some painful stimuli that met this criteria, no one understands why, and if the method is really measuring pain or something else. And even if it were to be proven and explained at some point, it is likely that the EEG signal contains indications of pain due to the severing of numerous nerve fibers, but not that the animal "perceives" pain. Nonetheless, collective human experience tells us that a cut from a very smooth knife is often not immediately sensed. That cannot be rebutted by EEG or any other studies. Shechita is done with a long, sharp, smooth knife and thus, to claim that shechita is a painful method of slaughter cannot, under any circumstances be substantiated.<sup>3</sup>

Lacking objective physiological measures of the level of pain caused by a shechita incision, others have looked for behavioral indications of pain and distress

<sup>3</sup> What is being discussed is the actual slaughter method. Pre-slaughter handling and restraint methods are not being discussed and it is possible that there are kosher slaughterhouses in which those can be improved from an animal welfare perspective.

as a result of the cut. Indeed, an important tool for assessing pain and suffering is observing the behavior of the animal. Grandin and Regenstein (1994), Grandin (1994) and Bager et al. (1992a, b) all described little or no reaction (other than a slight flinch when the blade first touched their throat) in cattle following a shechita cut. There was no response suggestive of pain. These animals were restrained, but not restrained to the point where they would be unable to react to a painful stimulus. These studies should be treated as strong evidence that the incision made during a properly performed shechita, unlike that made with a serrated knife, a hole-puncher during ear tagging, or dehorning, is not a painful stimulus.

The second premise of such legislation is that the legislated stunning techniques yield a slaughter method that, from an animal welfare perspective, is superior to shechita. This premise is not obvious and is at best controversial (e.g., CO<sub>2</sub> is believed by many to be aversive, despite its use being approved by and sometimes even encouraged by legislation). The first problem with this is that even if it were true, it would be so only when successfully implemented. And this is far from a given. In many production plants trying to maximize the number of animals slaughtered it is not trivial to correctly place the electrodes or mechanical stun gun on a cow or sheep. Many standards, such as those of the American Meat Institute, permit failure rates up to 5%, which in absolute numbers is a huge number of individual animals. Far more problematic is the stunning of poultry. The number of chickens killed is orders of magnitude greater than other animals, and yet all the methods of stunning chickens are prone to high degrees of failure and suffering by the bird. This is in contradistinction to shechita, in which the vast majority of rabbinic authorities will not permit slaughter of shackled birds on a moving belt; rather the birds must be individually held. This drastically cuts down on throughput but drastically improves animal welfare.

Merely legislating pre-slaughter stunning does not ensure that there exists an effective method of implementation that is also relatively immune to operator error by an unskilled operator. In fact, no such methods exist. When stunning is properly done it may help to decrease the pain and stress of the animal; but even that is hard to measure and determine and is thus far from certain, even though it presented as a fact by animal activists and supporters.

### **Principle of Ethical Cost-benefit**

The ethics of any decision must include a rational assessment of the ethical risks inherent in not carrying out a decision weighed against the effort and ethical consequences of making the decision. This assessment is ethically required of any decision. This seemingly consequentialism statement is not fully rejected by deontological ethics when both options can be viewed as ethical. In regard to the bans on non-stunned slaughter this was clearly not done. As demonstrated above, irrespective of what any past or future scientific studies show, no one can honestly claim that shechita is not at least as a “good” method of slaughter, even if they will not concede that it is the best or very good. There is simply no credible scientific evidence to suggest that shechita is a slaughter method that results in undue pain and

distress. Sometimes anecdotal undercover footage will emerge of a poorly executed shechita—but isolated incidences say nothing about the method, and these isolated situations have been and must be dealt with. Ethically, a system can not be evaluated based on its adherents, but rather on the proper application of the system. Therefore, while one may choose to use other methods of slaughter, to deny Jews the right to their method of slaughter is discrimination. There is no one ideal method of slaughter, and therefore a variety of acceptable methods can all coexist. For example, stunning advocates permit electrical stunning and captive bolt stunning, without (at present) a need to decide which of those is the “best”.

An additional argument made by stunning advocates is that it is a pre-emptive measure to prevent the suffering of those slaughtered animals that are slow to lose consciousness, in particular cattle. This delay in loss of consciousness, it is claimed can occur due to a variety of reasons, including what are termed “false aneurisms” in which despite the severing of the principal blood vessels perfusion to the brain is maintained via collateral routes and occlusions of the severed ends of the carotid arteries delays the loss of consciousness (Gregory et al. 2008). What is not usually mentioned is that electrical stunning “wears off” within the time frame suggested for some of these animals to lose consciousness and even just the awakening from such stunning appears to be unpleasant. Furthermore, this scenario is explicitly dealt with in the laws of shechita and an animal that is slow to die after the shechita must be killed by another means; blunt force trauma to the head being suggested in the older sources. In modern times in jurisdictions that have a good working relationship with the shechita industry (such as the USA, a country in which the government and the Jewish religious authorities have harmoniously worked together for the benefit of all), shechita is permitted unhindered but there is an understanding that an animal cannot be permitted to linger in a conscious state for too long, and if it does it should be killed by other means.

Were one to exam the ethical risks in not banning shechita, they would find that the only risk is that a very small percentage of slaughtered animals will be slaughtered by what some veterinary societies have claimed is not their preferred method, but rather by another method whereby the animals may experience several seconds of additional pain. On the other hand, passing such legislation, while guaranteeing that no animal is “subjected” to shechita, also ensures that the Jews of the jurisdiction will be deprived of meat and of their religious freedom. Those are the only two options: some animals will be killed via shechita and Jews can have meat or no animal will be slaughtered by shechita and Jews will not have meat.

In responsibly and honestly evaluating a tradeoff, it is incumbent upon the decision-makers to carefully weigh the downsides of each possibility. In an example from another domain: were one side of a decision to include the allowing of infant male circumcision, even those who oppose it would concede that it is not barbaric (and that parenthetically today it is being touted as a method to minimize the spread of AIDS, including recommending adult male circumcision). On the other hand, were one side of a choice to include permitting female genital mutilation, its opponents would view it as inviolable. It is so unacceptable that there is almost no rational argument that can be made in its favor. Regarding slaughter methods, dismembering a live animal might be comparable to female circumcision while

even the opponents of shechita, if they are honest, will have to rank shechita similar to the way the opponents of male circumcision view it.<sup>4</sup> Thus, when the consequence of the action is the denial of access to meat for an entire subpopulation, it is tantamount to a violation of a basic right of freedom of religion.

From a philosophical perspective, the current situation would seem to be clear: the current stunning techniques are not clearly better than shechita and are very prone to error. Thus, denying Jews the right to perform shechita is ethically problematic. However, the hypothetical question can be raised regarding future developments. If a genuinely effective and humane method of stunning were developed that was truly slightly more humane than shechita, would the rights of Jews to have access to meat outweigh the rights of animals to have a slightly more humane way of being slaughtered? This question requires analyzing several questions: Is shechita still considered an acceptable method even if not the best method? Is the new method one that is wholly unacceptable to the Jews such that mandating it effectively bans shechita? If the answer to the first question is yes, then other issues are irrelevant and even if the answer to the second question is no, the rights of Jews to shechita must be upheld and it would be ethically wrong to impose this new technique. In other words, the slight gain in animal welfare is not worth the infringement of religious rights as long as the differential between the methods is not substantial and has not revealed that shechita is inherently flawed. In other words, shechita has to be evaluated both by looking at the gap between the methods as well as by examining its absolute animal welfare benefit or infringement. If the answer to the first question is no, a dramatic shift from the present, has occurred. In that case, if the second answer is yes, it would still be ethically problematic to impose this new stunning technique; if on the other hand, the second answer is no, further deliberation is required, but it may be acceptable in such circumstances to impose the new method.

### **Principle of the Actual Rather Than The Desired Effect**

The ethics of a decision must be based on the most accurate assessment of what its actual effect will be, rather than on what the proponents would like the effect to be. This principle is relevant to both legislation aimed at banning slaughter without prior electrical or mechanical stunning and to legislation that would require labeling of meat slaughtered by shechita. In the former instance the initiators of the legislation envision their efforts leading not to the cessation of shechita, but rather to the adoption by the Jewish community of their stunning methods. In support they point to a few isolated instances where shechita may have been, or is being, done with stunning. Those instances, if true, were carried out by renegade practitioners and do not indicate anything about the Jewish community as a whole. More

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<sup>4</sup> Some groups, such as The Federation of European Veterinarians, have expressed strong opposition to shechita. But that must be seen in the context as being in opposition to their preferred method which includes pre-slaughter stunning. It is inconceivable, if they are honest, that they view properly done shechita as a “bad” method of slaughter. Of course, they may not have made the effort to see properly done shechita!

indicative is the fact that in every locale in which such stunning laws were enacted organized shechita ceased. Thus, the “desired” effect may be to impose the “more humane” animal slaughter method on the Jewish community. The actual effect will unquestionably be the effective ban of shechita and the infringement of the right of Jews to practice their religion and the total lack of meat being available to them.

The only potential source of meat would be importation, a more costly option than local shechita. Depending on the countries involved this could result in a nominal cost increase or a significant jump in the price of meat. The hitch is that even importation may not be allowed, for various reasons. In the case of New Zealand, importation of fresh meat is severely restricted due to veterinary concerns. In some EU states the rationale is that if a shechita ban is intended to benefit animal welfare, banning local shechita but permitting imported meat simply moves the animal welfare concern to offshore animals. These countries therefore propose a ban on importing meat that was slaughtered not according to their standards. This would eliminate all meat for practicing Jews.

Labeling is similarly intended as a means to encourage, or more accurately, coerce a certain behavior. The argument goes that that even if shechita is permitted, the number of animals “subjected” to shechita can be minimized by labeling, because labeling will increase the difficulty in selling of hindquarters thus forcing the Jews to purge them for Jewish use. Here too the actual effect will be quite different. Even if labeling was to decrease the demand for kosher slaughtered treifot and hindquarters on the general market, and that premise is thankfully far from certain, it will not accomplish the intended goal. Jews will still need to dispose of the treifot because they are in any event not permitted to use them. Furthermore, Jews will not begin porging. Rather, they will sell the hindquarters at a reduced price, thus elevating the price of kosher meat beyond the reach of many Jews. It is worth noting that kosher meat is already significantly more expensive than non-kosher meat due to the skilled labor of the shochet and kosher inspectors and the vastly slower throughput due in part to the care with which each animal and bird is handled.

Today about 70% of kosher-slaughtered meat is sold on the general market either because the animal was a treifa and the entire carcass is sold or the animal was kosher and just the hindquarter is sold. Having to sell it at a further reduced rate will significantly impact the cost of kosher meat.<sup>5</sup> Having to sell 70% of the cows or lamb slaughtered at a steep loss will require that the remaining 30%, that being purchased by the kosher consumer, be sold at a greatly inflated rate in order to merely cover the costs. Saying that kosher meat will then be many times the cost of non-kosher meat is not an exaggeration (assuming that labeling actually accomplishes its goal of reducing demand). It should be noted that the 70% that is sold on the general market is still a negligible amount compared to the quantity of non-kosher meat slaughtered. Thus, the probability of a non-kosher consumer eating a piece of kosher-slaughtered meat in most of Europe is negligible, almost zero. Even in the UK, one of only two countries in Europe with a relatively large amount

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<sup>5</sup> Unlike stunning laws, labeling should have little impact on kosher poultry of which very little is sold on the general market.

of shechita (the other being France), kosher slaughtered meat comprises far less than 0.3% of the meat in the general market. And in the rest of Europe there is far, far less kosher slaughtered meat.

This lack of porging in the face of labeling laws will be due to two factors. There is an intrinsic conservatism within the mainstream Jewish community which subconsciously opposes innovation and change. Even though there is nothing within the codes of law that would rule out the expansion of porging, there is little question that only a limited number of individuals/organizations will exercise that option. Furthermore, there is a very practical limitation—there are almost no trained hindquarter porgers anywhere in the world. The expansion of hindquarter porging, a skill that takes years to master, is simply a technical impossibility given the present circumstances. The desired effect may be honorable; the actual effect will simply be an unprecedented rise in the cost of kosher meat essentially depriving many Jews of the option of eating meat.

## General Discussion

Jews are in general more than pleased by civil animal welfare regulations. For close to two millennia, while Christian Europeans were crusading across the continent pillaging and plundering other humans, hunting animals using all sorts of methods, and killing bulls as a form of entertainment, while thoughts of concern for animal welfare were nowhere to be found, Jewish legal experts were already pondering specific animal welfare questions. This realization led Professor Louis Ginzberg to open his address to the American Humane Association at its annual meeting in 1913, by aptly stating “It gives me great pleasure to extend to the American Humane Association greetings from the oldest association for the prevention of cruelty to animals in existence—the Jewish people” (Golinkin 1996, pp. 146–150).

It is difficult to know the motives behind the recent legislation, but the existence or absence of other relevant laws gives one pause. The average consumer gives little thought to every step in the processing of how a cow or pig becomes a hot dog, and, in general, probably prefers that it remain that way. Governments have in recent decades taken steps to ensure that consumers have much more information on product labels so that they can make educated decision. But such decisions require a great deal of consumer understanding that is often lacking. When information is presented to consumers it has usually been the result of demands by special interest groups with an agenda, and not because of consumer desire. The average consumer is not qualified to judge what is and is not a humane slaughter, and the labeling will simply add to the confusion, as have many other labeling decisions.

Requiring a frozen chicken to be labeled “slaughtered by a religious method” while the one next to it states nothing, biases the consumer. A fairer labeling system would require precise labeling of how every animal died. Professor Joe Regenstein of Cornell University (lecture at DIALREL conference in Girona) has thus suggested such labels as: “one of the 5% of cows whose head was smashed in a failed attempt to stun with a captive bolt.” “electrocuted before exsanguination” “killed by using a gas chamber” and “traditionally hand slaughtered with respect

for the animal.” No such general labeling scheme has been suggested; the only labeling currently under discussion is to warn the consumer if the animal was slaughtered by religious means. The suggestion has been made that not labeling violates the freedom of conscience of those who are not informed of the method of slaughter of the meat they eat. If that is indeed the motivation then all meat should have a label describing its method of restraint, stunning technique and if it is successful, and how slaughtered.

The lack of protection for other animals is also startling. In New Zealand shellfish are on the list of animals protected by animal rights laws, yet they can be killed by placing them into a pot of boiling water, and some restaurants even cut their limbs and torso while they are still technically alive. While laws to label non-stunned animals are being passed, those same legislators are ignoring the plight of lobsters. Similarly, the EU wants to ban shechita, yet includes many countries that permit slaughter without stunning and call it hunting, or in Spain and parts of France they call it bullfighting. Why should hunting, an unregulated method of an individual killing a wild animal, and bullfighting, a bloodthirsty form of entertainment, activities in which over 10,000 animals a year are killed without stunning, be tolerated in New Zealand and elsewhere while the more humane method of shechita slaughter for food is banned? Why should the hides of minks and rabbits that are killed without stunning in huge quantities in China be used without labeling, yet the humane method of shechita will be stigmatized with a label?

## Conclusion

Jewish religious law mandates that humans act with compassion towards animals. It also prohibits the consumption of meat killed in any manner other than by shechita and includes certain other dietary restrictions. The Jewish community is thrilled to witness civil authorities implement laws that protect animal welfare—for example, as explained by former Israeli Chief Rabbi Ovadia Yosef, Jewish law is strongly against bullfighting and looks askance at hunting for sport. Shechita is rigorously defined in the Jewish codes and includes elements designed to minimize the suffering of the animal. These include the use of a long and very smooth knife and require that the process be carried out by a highly trained, respected member of the community. As such, the Jewish community is not averse to laws that guarantee the welfare of the animal in all matters that do not directly infringe on the free practice of shechita, a slaughter technique that causes the animal minimal suffering. Laws that do infringe in any manner on the free practice of shechita are viewed as discriminatory and should be avoided.

A variety of such laws have been enacted or proposed in recent decades. Many of these are predicated on the assumption that shechita is an in-humane method of slaughter. Herein I showed that recent studies that purport to show that are flawed and other, more credible studies have shown the opposite. I therefore categorically reject the opinion that shechita is more painful than another method of slaughtering. There are two main types of legislation that are bandied about. The first demands pre-slaughter stunning and I have shown that the consequences for the Jewish

communities of such a law is tantamount to the prohibition of shechita, and the ethical cost-benefit analysis does not justify such prohibitive laws. The second type is requirement to label meat as “slaughtered by religious methods” and these too were shown to be ethically problematic. Proponents of both types of laws have not properly evaluated the actual implications of such laws and have thus failed to recognize the ethical concerns inherent in them.

Thus, while the Jewish community welcomes laws that protect animal welfare, including regulating and restricting recreational activities that may infringe on animal’s well beings, laws that mandate pre-slaughter stunning or the negative labeling of meat derived from shechita are viewed as ill-motivated, denying the Jewish community of kosher meat, and counter-productive, and as such should be avoided by all legislatures.

**Acknowledgments** The author is grateful to Professor Joe M. Regenstein and Dr. Richard Reynnells for helpful suggestions on early drafts of his paper.

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