



נדרים דף ס"ה

Medicinal Testing on Animals

Rabbi Meir in the Mishnah discusses various cases, including “I won’t enter this house because there is a harmful dog or snake in it.” If the dog dies or the snake is killed, the vow becomes annulled by itself. The Tosfos Yom Tov asserts that it makes no difference **how** the creatures died. Although the Mishnah puts it as the dog “dying” and the snake being “killed,” that is simply the usual way it happens. The reason R’ Meir permits them is because the vow is worded as a condition, as if to say “konam as long as the dog or snake is in the house.”

Once on the topic of animals dying, let’s touch on the topic of using animals in medicinal testing. The two central issues in halacha that it revolves around are tzaar baalei chaim and bal tashchis; let’s explain.

Tzaar baalei chaim is the prohibition to cause anguish to living beings. The Gemara in Bava Metzia 32b deliberates if this prohibition is of the dioraisa level or dirabonon. The Rambam in Moreh Mevuchim (3:17) writes that it is dioraisa, based on the verse condemning Bilam for striking his donkey. So too Sefer Chassidim (666) and most Rishonim. However, some learn that the Rambam’s opinion is that it’s dirabonon, as the Gr”a (C.M. 272:11) points out that the Rambam omitted it from his Yad Hachazaka halachic compilation. However, even he notes that in other places it seems that the Rambam says it’s dioraisa. The second issue is bal tashchis, the prohibition to destroy something usable. The Torah puts this in the context of cutting down fruit trees, and the Rambam (Melachim 6:10) and many other Rishonim say it applies to anything, which includes animals.

Regarding testing for medicinal purposes, the Rema (E.H. 5:14) states “whatever is needed for medicinal or other purposes, it is not a problem of tzaar baalei chaim. Thus, it is permitted to pluck the feathers of a live goose. However, it is commonly avoided, since it is cruel.” According to this, one may use animals to try out treatments which may help people.

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This is not so straightforward, though. Imrei Shefer (Siman 34) asserts that the Rema means only if it is absolutely necessary, and not in cases of slight possibility of benefit. On the other hand, Shvus Yaakov (3:71) permits feeding poisonous herbs to animals to check their reaction. This is not even the cruelty that the Rema, mentions, because no direct, immediate harm comes to them. Possible effects occur only later. Somewhat in the middle, Chelkas Yaakov (Vol. 1:30) rules that medicinal experimentation on animals is permitted, except if one wishes to conduct himself with middas chassidus (piety). Sereidi Eish (3:7) permitted it unreservedly – piety is irrelevant here. In one's personal practices, one may be stringent, but research of treatments to benefit all mankind has no place for stringency. Who says that the animals' anguish is more important than that of the people suffering from the diseases they are trying to treat!

See the entire topic covered in Nishmas Avraham, E.H. 5:14; the above just a sampling of his many sources. He concludes that although some say it is permitted and even a mitzvah, one must be vigilant to minimize the suffering inflicted upon the animals, as long as it doesn't interfere with the efficiency of the test. And once they are no longer needed, if they are suffering, they should immediately be put out of their misery.

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