

EARLY MODERN WORKSHOP: Jewish History Resources

Volume 5: Law: Continuity and Change in the Early Modern Period, 2008, Yeshiva University, New York, NY

Expanding Legal Horizons?

Edward Fram, Ben-Gurion University, Israel

ABSTRACT: Legal change was not only a result needs to adapt the law to new situations but could be stimulated by new information. New sources were not always accepted and this presentation will attempt to locate the point in time in which acceptance of a large number of new sources took place in the eastern European community of the early modern age.

This presentation is for the following text(s):

- Shulhan `arukh
- Siftei Kohen-The Priest's Lips
- Turei Zahab-The Golden Columns



Edward Fram

Ben-Gurion University, Israel

Duration: 59:05



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Introduction to Shulhan `aruk, Yoreh de`ah 19.1

Edward Fram, Ben-Gurion University, Israel

The advent of movable print in the second half of the fifteenth century and the subsequent publication of hundreds of works dealing with almost the full spectrum of Jewish culture offered readers in many geographic settings the opportunity to explore ideas from beyond their traditional cultural frames of reference. For example, the printing of philosophical, mystical, and scientific writings of Sephardic (Spanish) Jewry, often first in the Italian lands from where they were carried into eastern Europe as part of ongoing commercial and cultural exchanges, offered Jews living in sixteenth and seventeenth-century eastern Europe the opportunity to delve into material that they and their predecessors had generally been unfamiliar with when these works remained in manuscript. Biblical commentaries and super commentaries too were published and they contributed to a rethinking of earlier ideas and even an outburst of creativity in commentaries on the medieval biblical commentary of Rabbi Solomon ben Isaac (known by the acronym Rashi) in eastern Europe.

Jewish law (*halakah*) was another area in which material from the Sephardic world was printed and found its way to eastern Europe. However, law was a relatively conservative endeavor and most Polish rabbis hesitated to embrace works from the Sephardic world. For the most part they continued to rely on traditional Ashkenazic sources, that is works from medieval France and Germany. Writing in mid-sixteenth century Cracow, Rabbi Moses Isserles noted that his contemporaries commonly said that legal rulings were to follow the views of Rabbi Mordecai ben Hillel, Rabbi Israel of Krems (both from the German lands), and Rabbi Jacob ben Asher, author of the fourteenth-century law code the *`Arba `ah turim* (The Four Columns) who often followed the views of his illustrious father, Rabbi Asher ben Yehiel, yet another Ashkenazic jurist (see Isserles, *Darkey Mosheh ha-shalem*, H. S. Rosenthal, ed., vol. 1 [Jerusalem, 1979], p. 37 [introduction]). Most Sephardic authorities simply never attained full standing in the legal world of sixteenth-century halakists in Poland.

The tendency to rely on a limited legal library persisted among Polish rabbis well into

the seventeenth century. It was only with the publication of Rabbi Shabbetai ben Me'ir ha-Kohen's *Siftey kohen* (The Priest's Lips) in 1646 that the scope of sources used in eastern European halakic parlance was truly opened up. Beyond demonstrating the young author's acumen for legal analysis, *Siftey kohen*, a running commentary/gloss on Rabbis Joseph Caro and Moses Isserles's *Shulhan `aruk* (The Set Table; a comprehensive code dealing with all aspects of Jewish law applicable in post-Temple period), is chalk full of references to legal sources from the Sephardic world, including texts from the sixteenth-century Ottoman Empire. Rabbi Shabbetai's receptiveness to views from beyond the Ashkenazic pale stood in stark contrast to the work of his older contemporary, Rabbi David ben Samuel ha-Levi whose *Turey zahab* (Golden Columns) was published earlier in the same year, on the same text, and in the very same format as *Siftey kohen*. The *Turey zahab* was not without its innovations but it reflected the traditional Ashkenazic legal world; Rabbi Shabbetai embraced all sources of legal information.

Rabbi Shabbetai ben Me'ir's innovation does not seem to have been emulated, not by his contemporaries and not by his successors. A quantitative survey of citations in legal works from the period shows that it was only in the eighteenth century that Ashkenazic authorities truly broadened their scope. This suggests that changes wrought during the Early Modern Period affected different fields in different ways and that law, or at least Jewish law in eastern Europe, was more insular than other fields of Jewish culture.

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Shulhan `arukh **The Set Table, Yoreh de`ah 19.1** **Shulhan `aruk, Yoreh de`ah 19.1** **1567**

Translated by Edward Fram, Ben-Gurion University, Israel

Shulhan `aruk, Yoreh de`ah¹ 19.1

The base text of Rabbi Joseph Caro's *Shulhan `aruk* was first published in Venice in 1565. Rabbi Moses Isserles's glosses were added to Yoreh de`ah in Cracow in 1570.

Rabbi Joseph Caro: The ritual slaughterer should say the following blessing before performing the act of slaughter: “[Blessed are You, Lord our God, King of the universe], who has sanctified us through His precepts and commanded us regarding ritual slaughter.” And if one slaughtered and **(1)** did not make the blessing, the act of slaughter is still **(A)** acceptable.

Gloss of Rabbi Moses Isserles: And if one slaughtered an animal **(B)** in which there was some doubt regarding its acceptability and there is need of an internal examination of the animal to determine that it is kosher, **(2)** one should slaughter the animal without making the blessing and, **(C)** if one finds it to be ritually acceptable, **(D)** one should then make the blessing on slaughtering, so long as it is not long after the act of slaughtering. And if one slaughters in the slaughterhouse, which is a dirty place, one should recite the blessing at a distance of four ells before entering the slaughterhouse and [from then on] one should not talk until after one performs the act of ritual slaughter.

Endnotes

¹ Rabbi Joseph Caro's legal code, the *Shulhan `aruk*, is divided into four main sections. The second such section is entitled *Yoreh de`ah* and deals with numerous aspects of

Jewish ritual life that are *not* dependent on the calendar cycle (e.g., kosher food, respect for parents, laws of mourning, etc.).

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שלחן ערוך

יורה דעה 19.1

Shulhan `aruk, Yoreh de`ah 19.1

1567

Prepared by Edward Fram, Ben-Gurion University, Israel

Shulhan `aruk, Yoreh de`ah 19.1

שולחן ערוך יורה דעה סימן יט

סעיף א

השוחט צריך שיברך קודם: אשר קדשנו במצותיו וצונו על השחיטה; ואם שחט (א) ולא בירך, א כשרה. הגה: ואם שחט ב דבר דאתיליד בו ריעותא וצריך בדיקה, (ב) ישחטנו בלא ברכה, ג וכשימצא כשר ד מברך על השחיטה, ובלבד שיהא סמוך לשחיטה. ואם שחט בבית המטבחים, שהוא מקום מטונף, יברך ברחוק ד' אמות קודם שיכנס לשם, ולא ידבר עד אחר השחיטה.

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Siftei Kohen-The Priest's Lips

Yoreh de` ah 19.1

Siftei Kohen

1647

Translated by Edward Fram, Ben-Gurion University, Israel

Shabbetai ben Meir ha-Kohen (1621–1662)¹

Siftey Kohen (Cracow, 1646)

- A. Even if someone purposely did not say the blessing, the meat is still permitted to him. And this is how Rabbis Joseph Caro, Moses Isserles, and Solomon Luria² (*Yam shel Shelomoh*, Hullin 6.1) ruled and this is also implied in the Halakot Gedolot³ (beg. fol. 126) but Rabbi Joel Sirkes did not rule in this way. Cf. beginning of section 28 [n. 3 in Shabbetai ben Meir's commentary].
- B. And Rabbi Solomon Luria (*op. cit.* 6.5) ruled according to Rashi's⁴ view that one should make the blessing before slaughtering because even if the animal would be found to be ritually unacceptable, ritual slaughtering removes it from the category of being a carrion [an animal that has died a natural death] (and at the end of this section, Rabbi Joel Sirkes in his commentary on Jacob ben Asher's *Arba`ah turim*, cited Luria as following Rabbi Isaac ben Moses of Vienna; in my humble opinion, Sirkes was not careful to read Luria in his entirety; cf., Luria). And this does not seem to be the view of the Jerusalem Talmud in *Berakot* (chap. 9) in which it says regarding the blessing on slaughtering that there is a presumption that the intestines are kosher. Cf., Yoreh de` ah 28 n. 26 [in Shabbetai ben Meir's commentary].
- C. And Rabbi Moses Isserles in his *Darkey Mosheh* cites in the name of Rabbi Israel of Krems⁵ on the first chapter of tractate *Hullin* that, "even when slaughtering a [presumably] kosher animal, if the slaughterer forgot to recite the blessing before slaughtering, the blessing should be said after slaughtering." And so is found in a few recent slaughtering manuals. And Rabbi Israel of Krems concluded there "that in all precepts, if one did not recite a blessing before performing it, one recites the blessing after doing the precept as is explained in tractate *Berakot* by Rabbi Isaac ben Moses of Vienna."⁶ And in the first chapter of tractate *Berakot*, he [Rabbi Isaac ben Moses of

Vienna] wrote as follows: “when one did not recite the blessing before performing the precept one should recite it after performing it and thus one will fulfill his obligation. However, at a meal, when it is prohibited for one to have pleasure without first having blessed, if one transgressed and ate without first making a blessing, since one has now come to the grace after eating, the blessing before the food is superseded [by the grace after the meal and there is nothing to do].” However, this is not Maimonides’ view (*Code of Law*, Blessings 11.6) who wrote that “if one slaughtered without first reciting a blessing, or for that matter, even if one separated priestly tithes (*terumot*) and tithes to the Levites (*ma`aserot*) or ritually immersed and did not first recite a blessing, one does not subsequently go back and recite a blessing after doing the precept. And so too in all similar matters.” And Abraham Treves’ in his work *Birkat Abraham* (end of section one and beginning of section ten) went to great lengths to counter Maimonides’ view with arguments and discourses and his basic point is that if one says that one may not make a blessing after having performed the act, then how is it that we require a convert (see *Shulhan `aruk*, Yoreh de`ah 268.2) as well as all others who require ritual immersion (cf. 200) and those who do other precepts to bless after having performed the act. And if it is because one could not say the blessing before performing the precept [for whatever reason], then one should not make a blessing at all. And in my humble opinion, all of Treves’s views do not make sense, for we have certainly learned that all blessings except for the Grace After Meals are rabbinical decrees, as is found in tractate *Berakot* in a number of places as well as in subsequent rabbinic literature. If so, the Rabbis said to say the blessing before performing precepts and not after and they also said regarding converts and cases where the individual is incapable [for technical reasons] of saying the blessing that one should say the blessing after performing the precept. And this is implied in B.T., *Berakot* 51a where it is said “Ravina said: Therefore, even if one finished eating, one should go back and say the blessing, as is learned in an earlier rabbinic text: ‘One who ritually immersed, when the person emerges from the water, the person should say: “Blessed [are You, Lord our God, King of the universe] who sanctified us through his precepts and commanded us regarding ritual immersion.”’ [The Rabbis responded to Ravina], this is not [a proof because] with respect to ritual immersion the person was incapable [of making the blessing beforehand] but here [on the blessing on food] the person was capable [of making the blessing but] failed to do so and therefore should not [go back] and make the blessing.” It would thus seem that only regarding ritual immersion and instances where one is incapable of making the blessing [did the Rabbis allow one to say the blessing after performing the precept], however, where one is capable of saying the blessing beforehand but did not do so, one may not say the blessing after [performing the precept]. And even though Rabbi Abraham Treves wrote that one might be able to differentiate between blessings over food and those said on performing the precepts, this is not at all certain. Moreover, Ravina himself did not make such a differentiation [between blessings over food and precepts] and we do not see that the Rabbis objected

to him over this point. And this is also implied in the view of Rabbi Jonah Gerondi⁸ in his comments on this section in tractate *Berakot*, who wrote that this is the law regarding all other blessings, that one must recite the blessing before performing the act and, if one did not do so, one does not say the blessing thereafter.

And another clear proof of this [that one cannot say the blessing after performing the precept] is that we learn in the beginning of tractate *Pesahim* (7b): “In the study house of Rav they said that all ritual blessings must be said before performing the precept, except for ritual immersion since the person was not [ritually] capable of saying it beforehand. We have also learned this in a tannaitic source, ‘One who immerses and comes up [out of the water], upon coming up one says, “Blessed [are You, Lord our God, King of the universe] who has sanctified us through His precepts and commanded us regarding ritual immersion.”’” What proof can be brought from this tannaitic source? One might say that only one who immersed and came up [can say the blessing afterwards] but ideally this not how it should be done, as Ravina, who explained that this tannaitic source is specifically discussing what to do if one had already immersed, therefore in other precepts too one can say the blessing after performing the act if one forgot to say it before. However, the Talmud certainly thought otherwise, for it would not have cited the reason that the person was not [ritually] capable of making the blessing [if this was not so]. If so, if someone performed a precept and the time for saying the blessing has passed, it has passed. And this is implied in the words of the tosafists⁹ in B.T., *Sukkah* 39a and by Rabbi Asher ben Yehiel¹⁰ (*ibid*) who wrote, “if one took the four species¹¹ in one’s hand without first saying the blessing, one should still recite the blessing. The reason for this must certainly be that one has not yet completed doing the precept for one must still shake the species.” This implies that if one has totally completed fulfilling the precept—and this would be true of all precepts—one does not say the blessing. (And in his work *Nekuddot ha-kesef*,¹² Shabbetai ben Meir deleted from “And another clear proof...” until here. And some gloss there, “and if so, even after having performed the precept one does not say the blessing for since [the opportunity for saying] it has passed, it has passed.”) And also in the rulings of Rabbi Menachem Recanati¹³ (no. 72), who cites Rabbi Isaac ben Moses and then Maimonides in his conclusion, implying that he too is of this opinion [i.e., by citing Maimonides last, Recanati signals to the reader his agreement with his view that one cannot say the blessing after having performed the precept]. And so too, Rabbi David Abudraham¹⁴ wrote that Rabbi Zerahiah ha-Levi¹⁵ shared Maimonides’ view [in this matter]. And this would appear to be the view of Rabbi Isaac Alfasi¹⁶ [as cited] in a responsum regarding the blessing said upon circumcision by Rabbi Moses Alashkar¹⁷ in responsum no. 18. Moreover, we know that whenever there is a doubt regarding blessings we are lenient [and do not recite them].

- D. Rabbi Mordecai Jaffe¹⁸ wrote that our custom is that when one has an animal and there is a question whether it can ever be kosher, one slaughters a chicken or other fowl before slaughtering the large animal (e.g., cattle) and says the blessing before slaughtering on

the fowl with the intention of including [the ritual slaughtering to be done on] the large animal. And this is what Rabbi Joel Sirkes wrote and it is proper to do so. And so it is written later (28.4) regarding covering the blood of a buffalo. Nevertheless, it is obvious that Rabbi Moses Isserles's ruling is correct where there is no possibility of slaughtering a fowl.

Endnotes

¹ There was some resistance to the publication of Rabbi Shabbetai ben Meir's work given his young age. His commentary shows great originality and was highly critical of views that he did not agree with. See <http://www.jewishencyclopedia.com/view.jsp?artid=525&letter=S>.

² A relative and contemporary of Rabbi Moses Isserles who disagreed with the whole notion of a concise code of Jewish law as exemplified by the *Shulhan `aruk*. See <http://www.jewishencyclopedia.com/view.jsp?artid=627&letter=L>.

³ A ninth-century legal work by Rabbi Simon Kayyara that was probably written in Sura (present day Iraq). It was transmitted in two recensions, both of which eventually arrived in medieval Franco-Germany. See <http://www.jewishencyclopedia.com/view.jsp?artid=151&letter=K&search=halakot%20gedolot>

⁴ The most important commentator on the Bible and Babylonian Talmud. Rabbi Solomon ben Isaac (known by his acronym, Rashi) was also a respected legalist who lived in Troyes (France) and died in 1105. See <http://www.jewishencyclopedia.com/view.jsp?artid=121&letter=R..>

⁵ Author of the *Hagahot Ashri*, a commentary on Rabbi Asher ben Yehiel's legal work. Rabbi Israel lived in Austria and died in 1420. See <http://www.jewishencyclopedia.com/view.jsp?letter=I&artid=310>.

⁶ One of the outstanding German rabbis of the thirteenth century, he studied in both France and Germany and was the teacher of Rabbi Meir of Rothenburg. See <http://www.jewishencyclopedia.com/view.jsp?letter=I&artid=231>.

⁷ A member of a leading French rabbinical family, Treves corresponded with a number of outstanding rabbis who lived around the Mediterranean basin in the sixteenth-century. His work, *Birkat Abraham* was published in Venice in 1552. See <http://www.jewishencyclopedia.com/view.jsp?artid=322&letter=T#1346>.

⁸ Catalonian rabbi famous for his ethical work, his legal commentary on tractate *Berakot* that is cited here was written by his students and attributed to him. He died in 1263. See <http://www.jewishencyclopedia.com/view.jsp?artid=166&letter=G>.

⁹ *Tosafot* literally means "additions" or "supplements." The term refers to rabbis in France and Germany from about the mid-twelfth century until the end of the thirteenth century who dealt with legal issues and whose comments on the Talmud were considered additions to the work of Rashi. See <http://www.jewishencyclopedia.com/view.jsp?artid=276&letter=T>.

¹⁰ The leading student of Rabbi Meir of Rothenburg, he fled Germany and settled in Toledo where he died in 1328. His legal commentary is a standard reference work in both the Ashkenazic and Sephardic legal communities. See <http://www.jewishencyclopedia.com/view.jsp?artid=1930&letter=A>.

¹¹ See Lev. 23.40.

¹² The work was first published in 1677. An editor has added this comment.

¹³ Menachem ben Benjamin Recanati (1250–1310) was an important kabbalist who lived in the Italian lands. Almost all of his writings focused on Jewish mysticism but he did write one legal work, his *Pisqey halakot* (Bologna, 1538). On Recanati, see <http://www.jewishencyclopedia.com/view.jsp?artid=151&letter=R#402>.

¹⁴ A student of Rabbi Asher ben Yehiel, Rabbi David Abudraham lived in Seville in the fourteenth century and wrote a commentary on the liturgy. See <http://www.jewishencyclopedia.com/view.jsp?artid=690&letter=A&search=Abudarham>.

¹⁵ Zerachiah ben Isaac ha-Levi Gerondi, a leading Provençal talmudic scholar of the twelfth century, wrote *Sefer ha-me'or*, a critique on Rabbi Isaac Alfasi (see next note) as well as a platform for his own original legal thought. See <http://www.jewishencyclopedia.com/view.jsp?artid=108&letter=Z>.

¹⁶ Eleventh-century rabbinic scholar who lived most of his life in Fez (North Africa). His *Halakot* that offered readers an abridgement of talmudic legal discussions and his own conclusions. See <http://www.jewishencyclopedia.com/view.jsp?letter=A&artid=1191>.

¹⁷ A member of the generation that was exiled from Spain, he moved to Tunis, Greece, and later Egypt (1522). He eventually made his way to Jerusalem where he died in 1542. See <http://www.jewishencyclopedia.com/view.jsp?artid=1061&letter=A>.

¹⁸ A student of Rabbis Isserles and Luria, he wrote a comprehensive code of Jewish law entitled *Lebush Mordecai* that may well have been more popular than the *Shulhan `aruk* in eastern Europe when it was first published in the late sixteenth and early seventeenth centuries. See <http://www.jewishencyclopedia.com/view.jsp?artid=136&letter=J&search=Jaffe#469>.

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שפתי כהן Yoreh de` ah 19.1 Siftei Kohen 1647

Prepared by Edward Fram, Ben-Gurion University, Israel

ש"ך יורה דעה סימן יט

א כשרה: אפילו הזיד ולא ברך כשרה אפילו לעצמו וכן פסק בית יוסף ודרכי משה ומהרש"ל פ' כסוי הדם ס"א וכן משמע בעל הלכות גדולות ריש דף קכ"ו והבית חדש לא פסק כן ועיין לעיל ר"ס כ"ח:

ב דבר דאתיליד בו ריעותא כו': ומהרש"ל שם סי' ה' פסק כרש"י (והב"ח סוף סימן זה כתב על שם מהרש"ל לכהאור זרוע ולפי עניות דעתי לא דקדק לראות כל דבריו של מהרש"ל עיין שם) דיברך קודם השחיטה דאפילו מיטרפא מהני לה שחיטתה לטהרה מידי נבלה ולא משמע כן בירושלמי פרק הרואה במאי דקאמר התם גבי ברכת השחיטה חזקת בני מעיים כשרים הם ועיין לעיל סימן כ"ח ס"ק כ"ו:

ג וכשימצא כשר מברך כו': ובדרכי משה מביא בשם הג"ה אשר"י פ"ק דחולין דאפילו בכשרה אם שכח ולא ברך קודם השחיטה יברך אחר השחיטה עכ"ל וכן נמצא במקצת שחיטת האחרונים. ובהג"ה אשר"י שם סיים דכל מצות שלא ברך עובר לעשייתו מברך אחר עשייתו כדפירש בברכות מא"ז עכ"ל. ובפ"ק דברכות כתבו וז"ל: היכא דלא בירך קמיה דמצוה מברך אחר המצוה ויוצא ידי חובתו, אכן בסעודה דאסור לאדם שיהנה בלא ברכה כיון דעבר ואכל והגיע ברכה אחרונה הואיל ואידחי אידחי א"ז עכ"ל. אכן אין כן דעת הרמב"ם ר"פ י"א מהל' ברכות דין ו' שכתב אם שחט בלא ברכה אפילו הפריש תרומות ומעשרות או שטבל ולא ברך אינו חוזר ומברך אחר עשייה וכן כל כיוצא בזה עכ"ל. ובספר ברכת אברהם סוף חלק א' וריש חלק י' האריך מאד לסתור דברי הרמב"ם במליצות והרצאות דברים ועיקר יסודו דאם איתא דאינו מברך אחר עשייתו אם כן היכא שרינן לגר (כדלקמן סי' רס"ח סס"ב) וכן שאר חייבי טבילות (כדלקמן סי' ר') ושאר מצות לברך לכתחלה אחר עשייתו. ואי משום דלא היה אפשר לברך קודם הברכה לא היה ליה לברך כלל עכ"ל. וכל דבריו אינם נראין לפע"ד דהא ודאי קי"ל כל הברכות הם מדרבנן חוץ מברכת המזון וכדאיתא בברכות בכמה דוכתי ובפוסקים. אם כן הם אמרו לברך קודם המצוה ולא אחר המצוה כלל והם אמרו בגר ודכותיה דאכתי גברא לא חזי יברך אחר המצוה. והכי משמע בפ' ג' שאכלו (דף נ"א ע"א) דאמרי' התם: אמר רבינא הלכך אפילו גמר מלאכול יחזור ויברך דתניא טבל ועלה אומר בעלייתו ברוך אשר קדשנו במצוותיו וציוונו על הטבילה, ולא היא התם מעיקרא גברא לא חזי הכא מעיקרא חזי והואיל ואידחי אידחי ע"כ. אלמא דדוקא גבי טבילה ודכותיה משום דלא חזי מעיקרא אבל היכא דחזי מעיקרא ולא בירך לא יברך אח"כ. ואע"ג דבספר ברכת אברהם כתב דה"ה דה"מ לשנויי ליה ולא היא התם ברכת המצות היא כו' אלא דעדיפא מיניה קאמר, אין זה מוכרח כלל. ועוד דהא רבינא ע"כ לא ס"ל

חילוק זה ולא חזינא דפליג עליה ש"ס בהאי. והכי משמע מדברי הר"ר יונה פ' ג' שאכלו שם זהו הדין בכל שאר הברכות שמברך עובר לעשייתן אם לא בירך אינו מברך אח"כ ע"ש. (ועוד) ראייה ברורה דגרס' ברפ"ק דפסחים (דף ו' ע"ב): בי רב אמרי כל הברכות כולן מברך עליהן עובר לעשייתן חוץ מן הטבילה דאכתי גברא לא חזי תניא נמי הכא: טבל ועלה אומר בעלייתו ברוך אקב"ו על הטבילה. ואם איתא מאי ראייה מייתי מהך ברייתא דלמא דוקא טבל ועלה אבל לכתחילה לא וכרבינא דהוי מפרש לה דיעבד דוקא דהא בשאר מצות נמי אי לא ברך מעיקרא מברך אח"כ אלא ודאי ס"ל לש"ס דאם איתא דלא אמרינן אכתי גברא לא חזי ושרי לכתחלה. א"כ אפילו דיעבד אינו מברך הואיל ואדחי אדחי והכי משמע להדיא מדברי התוס' פ' לולב הגזול (דף ל"ט ע"א) והרא"ש שם שכתבו דאם נטל הלולב בידו בלא ברכה דצריך לברך, על כרחך דהיינו טעמא דמברך אח"כ הואיל והמצוה לא נגמרה עדיין לגמרי דבעי נענוע עכ"ל. משמע הא אם גמר כל המצוה וכן בעלמא דלא שייך האי טעמא אינו מברך. (בנקודת כסף מוחק מן ועוד ראייה עד כאן, ויש מגידין שם א"כ אפילו דיעבד אינו מברך הואיל ואדחי ודו"ק) וגם בפסקי רקנ"ט סי' ע"ב הביא דברי הא"ז ואח"כ דברי הרמב"ם במסקנא משמע דהכי ס"ל וכ"כ הרב דוד אבודרהם בשם בעל המאור כהרמב"ם וכן נראה מדברי הרי"ף בתשובה גבי ברכת המילה שהביא ר"מ אלשקר בתשו' סי' י"ח ועוד דהא קי"ל כל ספק ברכות להקל:

ד מברך כו': כתב העט"ז שאנו נוהגין כשיזדמן לשחוט דבר שיש בו ספק טרפה ששוחט תרנגול או עוף אחר קודם לו וכוונתו ג"כ על זה וכן כתב הב"ח ודבר נכון הוא וכן הוא לקמן סי' כ"ח (סעיף ד) לענין כסוי הבופל"א מ"מ דינו של הר"ב אמת היכא דאין אפשר לשחוט עוף אחר וק"ל:

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Turei Zahab-The Golden Columns

Yoreh de` ah 19.1

Turey zahab, Yoreh de` ah 19.1

1646

Translated by Edward Fram, Ben-Gurion University, Israel

Commentary of David ben Samuel Ha-Levi (ca. 1586–1667)¹

Sefer turey zahab (Lublin, 1646)

1. This is stated to exclude the view found in the laws of Eldad ha-Dani² cited by Mordecai ben Hillel³ who prohibited meat slaughtered this way [i.e., without a blessing]. And Mordecai ben Hillel wrote in the sixth chapter of tractate *Hullin* in the name of Rabbi Eliezer ben Joel ha-Levi⁴ that if someone purposely slaughtered the animal without saying the blessing, that person may not eat from the meat of the animal and they [i.e., the community] would punish [lit., whip] him, however, other people could eat from the meat. And Rabbi Joseph Caro wrote that Moses Maimonides⁵ and other authorities disagree with R. Eliezer ben Joel ha-Levi.⁶ And my teacher and father-in-law of blessed memory, [Rabbi Joel Sirkes⁷], wrote that nevertheless, one should be stringent and fine the ritual slaughterer based on R. Eliezer ben Joel ha-Levi's view.
2. And some have the custom of slaughtering an animal that does not require an internal inspection at the same time [and they say a blessing over it first] and this is certainly preferable.

Endnotes

¹One of the leading rabbinic scholars of the mid-seventeenth century, his comments on the *Shulhan `aruk* helped make Caro's work the standard reference work in Jewish law until this day. After studying with his father-in-law, Rabbi Joel Sirkes, in Cracow, he served in the rabbinate in a number of communities including Poznań and Ostrog. See <http://www.jewishencyclopedia.com/view.jsp?artid=139&letter=D>.

²Eldad ha-Dani was a ninth-century traveler who claimed to be from the biblical tribe of Dan. His origins remain a mystery and many thought him to be a charlatan, however,

he transmitted a number of laws regarding ritual slaughtering that were accepted as legitimate sources by medieval Ashkenazic authorities. See

<http://www.jewishencyclopedia.com/view.jsp?artid=126&letter=E>.

³ An outstanding student of Rabbi Meir of Rothenburg, Mordecai wrote a halakic compendium that followed the organization of the Talmud and included rabbinic sources from England, France, and Germany. It is generally simply referred to as “the *Mordecai*.” He died in 1296. See <http://www.jewishencyclopedia.com/view.jsp?artid=772&letter=M>.

⁴ Rabbi Eliezer ben Joel ha-Levi was the great grandfather of Rabbi Mordecai ben Hillel and perhaps the leading rabbinic scholar in German in the twelfth century. See <http://www.jewishencyclopedia.com/view.jsp?artid=225&letter=E>.

⁵ The leading rabbinic figure of the Sephardic world through the centuries, he codified the entire corpus of Jewish law in his *Mishneh Torah* (Code of Law). Born in Spain, he fled with his parents to North Africa and later settled in Egypt where he lived for most of his life. He died in 1204. See <http://www.jewishencyclopedia.com/view.jsp?artid=905&letter=M>.

⁶ Caro was stating a point of law and not referring to an actual disagreement that took place between the two. Maimonides never saw Rabbi Eliezer ben Joel ha-Levi’s work and is unlikely to have ever heard of it.

⁷ Polish rabbi who wrote numerous responsa and a comprehensive commentary on the entire corpus of Jewish law applicable in the post-Temple period. He was rabbi of Cracow from 1619 until his death in 1640. See <http://www.jewishencyclopedia.com/view.jsp?artid=839&letter=S>.

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טורי זהב
Yoreh de` ah 19.1
Turey zahab, Yoreh de` ah 19.1
1646

Prepared by Edward Fram, Ben-Gurion University, Israel

Sefer turey zahab (Lublin, 1646)

ט"ז יורה דעה סימן יט

(א) ולא בירך שחיטתו כשירה: לאפוקי מהלכות אלדד הדני שהביא המרדכי שאסר השחיטה בזה והמרדכי כתב בפרק כיסוי דם בשם ראבי"ה דמכל מקום אם עשה כן במזיד אסור לאכול ממנה והיו מכין אותו אבל לאחר מותר וכתב ב"י דהרמב"ם ושאר פוסקים חולקים על ראבי"ה וכתב מורי וחותני ז"ל דמכל מקום יש להחמיר לקנסו כראבי"ה:

(ב) ישחטנו בלא ברכה: ויש נוהגים לשחוט עמו שחיטה כשירה וזה עדיף טפי:

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