

This is my second response to the matter in question.

Ashkenazi Zevi ben Yaakov Ashkenazi.

Initially, I was of the opinion that no person called a scholar could possess any doubts that the life of every physical living creature is dependent on his heart, and that when it expires, its owner expires too. That was why I responded so briefly in my first responsum. Now I see that a few of the wise men of this land have doubts about this matter, and that it will be good to explain my words and dispel the doubts that one scholar raised about my previous answer. I will respond according to the order of the manuscripts that this scholar wrote.

Regarding what he wrote about the proof that I brought from the commentary of the *Kesef Mishnah* who wrote simply that Maimonides did not list the case of the heart being removed from the animal since the animal cannot survive even one hour without a heart, and so it cannot be considered a *treifah*, (which is a living animal afflicted with an organic disease) but rather a *neveilah* (a carcass). [This scholar claimed that] this is a minority opinion. And the *Tosfot*, *Ro"sh*, *Rash"ba*, and *Tur* who all wrote that-the specific cases of removed organs, such as heart, lungs, and intestines, did not need to be listed in the mishnah (Chulin 42a) since they are implied by the cases of perforated organs-instead of explaining that-these cases were omitted from the mishnah since they are *neveilot*, and our mishnah was only listing cases of *treifot*- apparently do not share the opinion of the *Kesef Mishnah*.

There are several answers to this point.

Firstly, are we suggesting that the goal of these poskim and commentators was to resolve a difficulty, that you are asking-why did they resolve it this way and not that way? In fact, their entire purpose was only to rule out the opinion that "only if they were punctured, but if they were removed, the [animal] is kosher. Such is the opinion of the *Ra"avya*, cited in the *Haghot Ashri*, regarding a gallbladder that was removed. They came to refute that opinion, and thus they were not concerned whether the animals are *treifot* or *neveilot*, and did not derive anything from the distinction.

Additionally, even if [they were of the opinion that] the reason in the case of the heart being removed, 'is that it is a *neveilah*', they would still have had to explain: abomasum, lung, intestines, gallbladder, and inner rumen, since that reason wouldn't apply to them, since though the animal is *treifah* if those organs are removed, it is not a *neveilah*. Thus, they were forced to hold that the [cases not explicitly written] are derived by an *a fortiori* argument.

Furthermore, even if one were of the opinion that all these cases are *neveilot*, the *a fortiori* argument is a stronger argument to prove their position, since the animal is nevertheless a *treifah*. This explains the argumentation of the *Tosfot* and *Rashba* who wrote their opinion as a conclusive proof. While with regard to the *Rosh* and the *Tur*, since they were simply stating the law as it is, there is no need to explain their explanation, other than to say that they wanted to include even cases that are very unusual, as I explained in the first responsum, and what weak argument do we have here?

Far be it from us to suggest that our Rabbis dispute a matter that a Teacher of Israel, the author of the *Kesef Mishnah*, considered so basic, when our sense experience, actual reality and all the sages before us support his opinion, as I will explain, with God's help.

Regarding what he further wrote: "Even according to the opinion of the *Kesef Mishnah*, he has still not satisfactorily explained Maimonides, since Maimonides listed [these *treifot*] there [(Chulin 10:9)]: absence of the abomasum, the omasum, and the reticulum, while presumably, one would suppose that an animal could not live even one hour without those organs, and yet nevertheless he listed them."

I am surprised since this is a homiletic dispute, since our basic premise is that the heart is not like other organs which a person can live without for up to a year, in contrast to the heart. Furthermore, how can he contradict the opinion of the *Kesef Mishnah* and raise a difficulty based on an argument of 'presumably' and 'it is conceivable'.

And his characterization of my opinion in my first responsum - "that it is impossible to conceive a situation of the heart being removed, except in a case where the animal was slaughtered immediately after it was removed, and regarding a case of illness, it is impossible [that the heart will decay...] and the animal will not be on the brink of death"- as *divrei neviut* (literally, words of the prophets, but figuratively the phrase means ridiculously speculative), certainly that was said in praise and like the Tosfot explained in the name of Ri', for that is the truth as we are about to explain.

With regard to his objection that "we have established that a *treifah* can grow more hearty and we should not differentiate between one *treifah* and another," this does not even constitute an objection, since while we have heard that there is an opinion that a *treifah* can grow more robust, we have not heard that a *neveilah* can grow more robust, and far be it from us to say so. And while we should not differentiate between one *treifah* and another, there certainly is an essential difference between a *treifah* and a *neveilah*, since the former condition does not defile the animal in its life, and if it is slaughtered, the slaughtering renders it pure, and it can live 12 months, according to the opinion of 'two or three years' and according to the opinion that a *treifah* can continue to live. A *neveilah*, on the other hand, is already dead, and it cannot continue living, according to all opinions, and it defiles even while it is alive.

Regarding what he wrote: "Perhaps someone will suggest that this chicken too had deteriorated from a previous hearty state."

It is easy to invalidate this question since we know that the heart is the seat of the life force, according to all opinions, as we will explain further on, and the limbs cannot live or be sustained without the life force and spirit that reside in the heart. It is therefore a *neveilah*. And this corresponds to the language of the Zohar on Parshat Shlach: "Come and see, when the Holy One, blessed be He, created man in the world, he fashioned him in the manner of the upper world. He gave him strength and vitality in the center of his body, where lies the heart, the source of strength and vitality for the whole body, wherefrom the entire body is sustained. The heart is attached and strengthened in the high area above, which is the brain in the head that rests above, and it is connected to

it. In a similar manner, the Holy One, blessed be He, fashioned the world. He made it one body and He arranged the body's organs around the heart, with the heart in the center. The entire body and all the organs are sustained by that heart, which has more vitality than all the organs, and upon which all the organs are dependent. And that heart is connected and joined to the upper brain that rests above."

And in Parshat Vayakhel, on the words, "Take from you an offering to God, all generous of heart...(Exodus 35:5)": "Come and see, when a man bends his will to worship his Master, the will first reaches the heart, which sustains and serves as the foundation of the entire body..." It is explicit in the words of the Zohar that all of the body's strength, energy and vitality derive from the heart, and that all of the body's organs receive their nourishment from it.

Thus, it necessarily follows that if the heart suffers an ailment that causes it to decay and dissolve, that all the limbs of the body will also decay and dissolve. For how could the heart be so ill that it entirely decays and dissolves, without having any impact whatsoever, leaving the organs intact, healthy and robust. Even if [the chicken] was once twice as fat as it was now, it is unimaginable that an illness can be so severe that the heart will decay and dissolve entirely, and yet the organs will retain their fats and their health. Furthermore, how could the absence of the king of the entire body leave no perceptible impact, nor weakness - that seems impossible.

The saintly Rav Yitzchak Luria, who speaks with divine inspiration, agreed with what is accepted by everyone in the world, that the heart is the seat of the vital soul and that it expires last, after all the other organs, close and distant from it, have expired, and he interpreted accordingly the words of the prophets from Beit El. Just as the great gaon, *Mahari"t Z"L* wrote in his name, based on the Zohar on Parshat Naso describing the process of death: "When he sees him, his whole body and spirit tremble, and his heart does not settle down, for it is the king of the whole body, and its spirit moves throughout his body's limbs, taking leave of them, like a person taking leave of his friends to go to some other place. He then says, woe for what I have done, but it does not help him, unless he preempted it with the remedy of repentance, before that time arrives. The person cowers and wants to hide but cannot. When he sees that he is powerless, he opens his eyes, and he must look at him. He looks at him with open eyes, and right then he relinquishes his strength and soul. That moment is a time of great judgment, for during it man is judged in this world. This spirit then passes throughout all the organs trembling, and all the limbs of the body tremble. When the spirit arrives at each and every limb to take leave from it, sweat develops on that part of the body and its spirit departs from it, and that limb immediately dies. So it is with all of the body's limbs. Once the spirit is ready to depart, for it has taken leave of the entire body, God's presence rests upon it, and the spirit immediately flies from the body."

According to his understanding, when a sweat develops upon a limb, it is because the spirit has departed from it, and the limb is dead. [All the limbs] do not die at once, but rather the most distant from the heart die first. It is accepted that the extremities like the hands and feet, sweat this sweat of death, and expire first because they are the farthest from the heart. Then one by one [the others expire], drawing closer and closer to the

heart, since the life force is implanted in the heart, and there it remains until [the body] fully expires, because no soul remains at all. Moreover, it seems utterly absurd that the heart will dissolve into nothingness, and nothing will remain of it, no coagulated blood, or shriveled organ, or decayed flesh - all as a result of illness, and yet the chicken will be plump, healthy and fully conscious. 'That it was removed by hand,' it is impossible to say in our case.

Regarding what he further wrote: "Or perhaps it was born so, though that is impossible according to the *Kesef Mishnah's* reading of Maimonides. Nevertheless, according to other poskim, who considered missing and removed as one in the heart, it is certain that it is possible to find such a case."

He writes of things that do not exist, that have never been heard or seen uttered by a *posek*, or by anyone who can speak. You will not see or find any person in the world who would suggest that a fetus could be born without a heart; everyone would laugh at such a notion. If an "incomplete skull, closed-up windpipe, a squashed face, and one of the thighs in the middle" is not considered a valid birth, as will be explained further on, surely that is so [if a body is] without a heart, which is the king that rules over and controls the body, in general and in particular, as we explained above, and it is explained in books of scholars that no creature can be born without it.

Regarding the proof that he brought from the [laws of] slaughter of the *Ra"z*, who wrote that he found a cow with two hearts and he rendered it a *treifah*. He wanted to prove that just as [an animal] can be born with two hearts, so too it can be born without a heart. This analogy is incongruous and the comparison invalid since it is expressly impossible to have [an animal] without a heart, since if there is no seat for the life force, where can it rest, and how can we conceive such an animal? An animal with two hearts, however, has a seat where the life force can rest.

Such is the nature of the [letter] *kaf* of comparison, as) that the two things aren't truly equivalent, as I have written elsewhere, and as is expounded upon in several places in Gemara and in Zohar, on the verse, "a likeness **like** the appearance of man (Ezekiel 1:26)." There are other verses too, and on the verse in *Eichah Rabbati*, "She has become **like** a widow (Eichah 1:1)," more examples are brought. Similarly, in tractate Yoma (37b), "He sees and writes what is written on the writing tablet. Should it not say **like** what is written on the writing tablet." and there are many similar cases in Talmud. Even the *poskim* who think that when a person says to his friend, 'you are like a *mamzer* (an illegitimate child)', it is like he said to him, 'you are a *mamzer*', this isn't because they don't hold by this reasoning, because they cannot refute the clear proofs of the Zohar, but rather because they are of the opinion that that case is different, because it disgraces a person even to say that his desire to enter into the congregation is as objectionable **as** that of a *mamzer*.

Is that so for don't we learn in the third chapter of Niddah (24) that if [a fetus's] skull is incomplete, it is not considered a valid birth, and his mother is not defiled due to childbirth. And Maimonides established a principle in the Laws of Bikkurim 11:14, that

in all cases in which the mother is not defiled due to childbirth, the child born subsequently is a firstborn that belongs to the kohen. Thus a child born after a fetus whose skull was incomplete is a firstborn belonging to the kohen since the first fetus is not considered a valid birth at all. A case of two heads can be found in the third chapter of Menachot (37a), “Plimo inquired of Rebbe, ‘If someone has two heads, on which does he put tefillin? He replied, either go into exile or accept upon yourself excommunication [for laughing at me]. Just then, a person came and said to him: ‘A baby with two heads was born to me. How much am I required to pay the kohen? A scholar came by and taught him that he must pay ten *selaim* [five for each head]. Is that so, for didn’t: Rebbe bar Chama teach: From the fact that it is written, ‘You shall redeem the firstborn of man (Numbers 18:15)’ I might think that this holds true, even if the baby was killed within 30 days of its birth, thus it says, ‘*ach*’, restricting who is included [and this should exclude also our case of a baby with two heads since it will not live]. This case is different since the Torah specifically links [the mitzvah of redemption] with the [baby’s] head.” [“You shall take five shekels for every head (Numbers 3:47).”] It is clear from this Gemara, that a fetus with two heads is considered a valid birth, from the fact that it requires redemption and it is obvious that the fetus born after him is exempt from redemption, since this one is obligated in it.

If the thought occurs to you:

That when we say, “any additional limb is akin to one that was removed,” we consider the being as if it were *truly* born without the limb in question. Now, when it is born missing a head, it is clear that it is not considered a valid birth, since that case is even worse than [the case of] a skull that is *atumah*, which they interpreted as incomplete. This is what R. Pappa said there in the third chapter of Niddah (24): “The dispute refers only to cases where the lower part of the body is affected, but if the upper part of the body is affected, no matter how small the missing part, the woman is ritually pure. So also said R. Giddal in the name of R. Yochanan: If a woman aborted a fetus whose skull is *atumah*, she is pure.” Since there is no dispute in the case that a bit of the head and skull is missing that the mother is ritually pure, *a fortiori and all the more so* that the mother is pure in a case that the entire head is missing. Maimonides writes accordingly, ruling that since the mother is ritually pure, the child born after this one is considered a firstborn requiring redemption. Thus, it is clear that this fetus is not a firstborn requiring redemption. If so, why is the case of a two-headed fetus considered a valid birth, and a firstborn belonging to the kohen? One is forced to say, even though we say, “any additional limb is akin to one that was removed,” and an additional head is deemed equivalent to the absence of a head with regard to matters of *treifot*, nevertheless, it is not regarded as *truly* missing a head, and thus deemed an invalid birth, just as if it were actually missing a head (in which case it is not considered a valid birth for any matter). But rather even though it is a *treifah* just like the no-headed fetus, it is preferable to the latter, since the latter is not a valid birth at all, and is not worthy of a soul, while the former is a valid birth for all matters, both for firstborn redemption, and ritual defilement associated with birth.

Such is the law also with regard to two hearts and one heart. Even though, a fetus cannot be born at all without one heart, with two hearts it can be born and also live; though it is a

treifah. Do not say that that case is different since the Torah specifically links the [mitzvah of redemption] to the head, and therefore, it is as if [the Torah] explicitly said, 'for two heads give ten shekel', since Rashi writes: "This one has two [heads], and if [you thought that two-headed fetus was exempt from redemption] because of the derivation made from the word *ach*, it has not yet died." If you thought that we learn it from extraneous words in the verse, Rashi should have said, 'you are compelled to say that the verse came to teach us this.' The restriction of *ach* is also not problematic since the verse clarified the issue explicitly. Also what did Rashi mean, "it has not yet died", it certainly has died, since even if it broke its neck and most of the flesh was severed, it is a *neveilah* and carrying it defiles, and in the case of a person, it defiles the tent, as it is written explicitly in the first chapter of Chulin. How can Rashi say, "it has not yet died"? Apparently two heads are not equivalent to no head, and so too two hearts are not equivalent to no heart.

Another proof: even though we say that "any additional limb is akin to one that was removed," rendering [the animal] a *treifah*, it is not truly regarded as if the limb were missing, so that it is deemed a *neveilah* even in its life or unable to recover. As was said in the third chapter of Niddah (24), "A creature that had two backs and two spinal columns, Rav ruled: In the case of a woman it is not a valid birth and in that of a beast it is forbidden to be eaten; but Samuel ruled: In the case of a woman it is a valid birth and in that of a beast it is permitted to be eaten." Rashi explains that a beast born like this is a *nefel* (a non-viable birth) and born such, it is forbidden to eat. When the Torah taught Moshe [that *shesuah* is forbidden], it taught him in this world, showing him an animal that is in this world, but if it is born from an animal that has one back, He did not need to tell him, since it is nevertheless forbidden since it cannot live. Even though R. Tam explained it otherwise, we follow the position of Rashi, and nevertheless in a woman it is considered a human child. And if you think that when we say "any additional limb is akin to one that was removed," that this means truly as if the limb were actually missing, you will have a contradiction from one statement of Shmuel on another statement of his, for Shmuel was of the opinion in the first chapter of Chulin (21a) that: "If he split an animal in two, it is a *neveilah*." Rashi explains: He cut it widthwise, cutting from its back through the spine until the stomach cavity." Thus, it is clear that if the back and spine are removed, the creature in question is a *neveilah* and in the third chapter of Niddah (24), we learned that according to all opinions, something which renders the animal a *neveilah* is not considered a valid birth. If so, how can Shmuel be of the opinion that two backs and two spines, in the case of a woman, is a valid birth, when such a case is equivalent to one in which the back and spine are removed, making it a *neveilah*, and therefore an invalid birth, for in the latter issue there is no dissenting opinion. Evidently, even though we say, "Any additional limb is akin to one that was removed," and it is a *treifah*, it is not truly missing and a *neveilah* so that we would consequently say in the case of a woman that it is not a valid birth.

Do not say: According to your reasoning, it is nevertheless a *treifah*, and it is implicit from the discussion there that according to the opinion that a *treifah* can not survive [his mutilation], a fetus born with signs of *treifut* is not a valid birth, and it is implausible that Shmuel is of the opinion that a *treifah* can survive.

It appears to me that Shmuel is of the opinion that even though a *treifah* cannot survive, it is nevertheless a valid birth, since it can survive up to 12 months (except according to Rashi, who must explain that Shmuel holds that a *treifah* can survive). For he concurs with Rava who ruled there (23b) that: “If a child's gullet is perforated his mother is unclean, but if his gullet is closed up she is clean.” even though generally he holds like the anonymous mishnah. The same position is explicitly brought in the first chapter of Bechorot 3a, “R. Chisda said: That which renders it a *neveilah*. Rava said: That which renders it a *treifah*. Regarding what issue is there dispute between them? The issue of whether a *treifah* can survive, for the opinion, that which renders it a *treifah* (namely Rava) holds that a *treifah* cannot survive.” Here it is explicit that Rava holds that a *treifah* cannot survive. (That is certainly a question on what Rashi said. One must explain that his text read *Rabah* with a *He*.) As is the opinion of Maimonides, and not Rashi. [A child with] a perforated gullet cannot survive, yet nevertheless his mother is ritually clean, since she could live up to 12 months longer.

Do not ask from the question posed in the second chapter of Chulin (32) on our mishnah: [The mishnah there rules that in a case where] he cut the gullet and split the windpipe, [the animal is a] *neveilah*. [The gemara there asks] doesn't this contradict the mishnah (Chulin 42): The following are *treifot* - a perforated gullet...What is the question? - Since the perforated gullet can survive, it is appropriate that it was included in the list of *treifot*, for Tosfot already explained s.v. *Ureminhu*: “If you suggest that it chose a *treifah* prohibition to teach us that if he cut a *kezayit* of flesh in its life, he receives lashes also because of *treifah*, we can say it is apparent that the mishnah of “these are *treifot*” is discussing cases after *shechitah*, from the fact that the end of the mishnah reads, “Any [injury] like which another animal would not survive, [renders it] a *treifah*” and not “Any injury which it does not survive, [renders it] a *treifah*.” Since it is dealing with cases after *shechitah*, and since in the case of a perforated gullet *shechitah* is of no avail, it is considered an unqualified *neveilah*. But, it is certainly true that if an animal's gullet is perforated and it is still alive that it is only a *treifah* and not a *neveilah*, and it does not render anything ritually unclean at all. It is clear, that even with a perforated gullet, an animal can survive up to 12 months, even though *shechitah* will not serve as remedy, and thus its mother is defiled, since it is a valid birth. But in the case of a *neveilah* since it causes defilement even when it is still living, it is not a valid birth at all. This understanding can resolve what was difficult for our Teacher in the *Kesef Mishnah* in the tenth chapter of The Laws of Forbidden Relations (10:11), the halacha beginning, It was created...” He writes: “We learned in the braita: If a woman aborts an incomplete body, she is not defiled by reason of such a birth. What is an incomplete body? That which would cause a living creature to die, if it were removed from it. What is the extent of the part that if taken from a live person would cause him to die? — R. Zakkai replied: To the top of the knee joint. R. Yannai replied: To his lower orifices. R. Yochanan citing R. Yossi b. Yehoshua replied: To the position of his navel.” It is surprising that our Teacher ruled, ‘to the position of his navel’ for in the Gemara, it seems that the author of this position does not hold either that a *treifah* cannot survive or that, ‘if an animal's haunch and thigh were taken, it is a *neveilah*.’ Hence, it does not suffice in his opinion, if it is to the top of the knee joint or to his lower orifices. Since we hold of the opinion that a

treifah cannot survive and we also hold of the opinion that ‘if an animal’s haunch and thigh were taken, it is a *neveilah*’ and our Teacher also ruled accordingly in the Laws of Shechitah, we should also rule, ‘to the top of the knee joint.’ This calls for further study.”

He also wrote further on, “It says in the Gemara - Rava said: If his gullet is perforated, his mother is ritually unclean, but if his gullet is closed up she is clean, from the defilement of birth. The reasoning is that since the gullet is closed up, he cannot live, and a fetus born in such a way that it is not suitable for the creation of the soul does not defile its mother, since it is not a valid birth... Now why did our Teacher omit the case of a perforated gullet? It is possible that he, Z”L explained that Rava’s reason was that he held, a *treifah* can survive, like the explanation of Rashi. And since we hold that a *treifah* cannot survive, the halachah cannot be like Rava.”

I am surprised at the Rav Z”L for according to his resolution, you have more reason to ask why Maimonides did not choose a more expansive reading, that even if his gullet is perforated, his mother is ritually clean. While it is the Maimonides’ custom only to cite the cases mentioned explicitly in the Gemara, this case was mentioned explicitly in the Gemara, and he simply rules contrary to it, for the reason that we also hold explicitly in the Gemara that a *treifah* cannot survive. Thus he should have cited the case.

In my opinion, Maimonides did not hold like Rashi, but rather like Rava that even though he is a *treifah* if his gullet is perforated, nevertheless his mother is defiled, since she could live up to 12 months longer, and since he is of the later generation of quoted authorities, Maimonides ruled like him. Thus there was no need for him to cite the case of a child with a perforated gullet whose mother is unclean since any case which he did not include in the list of those that the mother is not unclean is of itself one of those that renders the mother unclean. And this is very clear. And so wrote the *Rashba* in *Torat Habayit Haaroach*, Section 7, Chapter 6, (184d). See the *Chiddushei HaRashba* on Niddah that were reprinted. This is the reason that he did not rule like R. Zakkai, who said: to the top of the knee joint, since even though R. Zakkai linked the reason the mother is ritually unclean to whether a *treifah* can survive, so that if it cannot survive, its mother is not defiled, we don’t hold of his opinion in this case. Rather, we hold like Rava, since he is a later authority. And what was said further in the Gemara that it is not necessarily true that R. Yannai held that a *treifah* can survive, since it is possible that even though he holds that a *treifah* cannot survive, he still holds that the mother is unclean, like the position of Rava. The Gemara simply did not care to be more precise and speak at length since once it was compelled to say that R. Zakkai was of the opinion that a *treifah* cannot survive, it also said that R. Yannai was of the opinion that a *treifah* can survive. For it is possible that he holds such an opinion, and it makes his opinion that the mother is unclean from birth more plausible though it is not absolutely certain that he holds that opinion, and we can find others who concur with him in the gemara (and the *Ra”avan* wrote even greater than this regarding a case of a thorn in the gullet).

Regarding what was said further, “The point at issue between R. Yannai and R. Yochanan is a ruling of R. Eleazar; for R. Eleazar ruled: If the haunch and its hollow were removed the animal is *neveilah*.” Maimonides holds not like Rashi who explains

that both hold that a *treifah* can survive. For if so, you may raise a question on the R. Yochanan who said in general that the halachah follows the anonymous mishnah, and we have learned the mishnah: “Any mutilation which would cause an animal similar to it to die renders it a *treifah* (Chulin 3:1).” this implies that a *treifah* cannot survive, so how did R. Yochanan hold the opposite. Even though we say, they are amoraim who follow the position of R. Yochanan, the gemara should have pointed out the contradiction between the two statements of R. Yochanan, and then resolved the issue in this way or by saying that what he said there was said in the name of R. Yossi ben Yehoshua, while he does not hold of that opinion. Clearly, the fact that the Gemara didn’t suggest this implies that even though R. Yochanan holds that a *treifah* cannot survive like our anonymous mishnah, he, nevertheless, holds that the mother is defiled from the birth like the opinion of Rava. That which [the gemara] said: “The point at issue between them is a ruling of R. Eleazar” did not mean that R. Yochanan does not hold of R. Eleazar’s opinion, but rather that they argue regarding R. Eleazar’s ruling, whether for a person too, the thigh and the hollow behind it suffice, or whether for a person, we require, until the navel.

Or, and this is the correct explanation, Maimonides holds according to R. Zakkai who said, “To the top of the knee joint”, but this does not include the knee joint; rather, even right below the knee joint renders the person a *neveilah*. He does not accept R. Eleazar’s opinion or the interpretation of Rashi. R. Yochanan’s ruling of “until his navel” is equivalent to the standard R. Eleazar set for an animal, namely that when he sits, we can see the missing limb, since for people, this measurement is until his navel. Nevertheless, we learned that even though we hold that “any additional limb is akin to one that was removed,” [we don’t perceive it] as actually removed and we cannot apply the law from the case of the additional limb that is not a *neveilah*, to the case of an actually missing limb, where the law is that it is a *neveilah* even in its lifetime.

If you say, why have you brought an argument from Shmuel when the halachah is not according to him. You should bring an argument from Rav, since the halachah is in accordance with his opinion. You have not asked wisely about this, since we certainly should not invent controversy from our own hearts when Shmuel’s opinion is definite and even Rav does not explicitly argue with him regarding this. This is fundamental to the entire Talmud. When Rav said with regard to a woman, that the fetus is not a valid birth, this was not because “any additional limb is akin to one that was removed,” but rather because he holds that the fetus is like an incomplete body, a closed-up gullet, a squashed face, or a body with an eye or thigh in the middle, in which cases the mother is ritually clean. Bear in mind that he prohibited this even within the mother’s womb, even though a *treifah* or *neveilah* in their mother’s womb are permissible. Clearly, this creature is different from all others, that Torah prohibited it in the womb of its mother for an animal, and, for a woman, it does not render the mother ritually unclean. This is clear. Our Teacher holds thus in the *Kesef Mishnah*: that even though a creature cannot be born without a certain limb, it can be born with two of a particular limb, as he writes in Chapter 6, Halachah 20, regarding what Maimonides Z”L wrote: “Any limb, which the sages said, renders a creature a *treifah* if it is at all perforated, also renders the creature a *treifah* through its complete removal, regardless of whether it is missing as a result of illness, because it was removed manually, or because the creature was born without it. Similarly, if it was born with two of a particular limb, it is a *treifah*, for ‘any additional

limb is akin to one that was removed,” The *Kesef Mishnah* wrote explaining his opinion, “It is implicit according to our Teacher’s opinion, that if she was found to have two livers, she is kosher, since it is irrelevant that ‘it is as if it was removed. Since ‘as if it was removed’ means ‘as if it had been lacking one from birth’, and [an animal] lacking a liver is kosher...One should reject that and say that a creature cannot be born without a liver.”

He is saying that when two livers are found, one cannot say that the animal should be regarded as if it were born without a liver, which presumably is kosher according to the rule that Maimonides established at the end of the eighth chapter: “A limb regarding which it was said that if it was removed the animal is a *treifah* renders the animal forbidden only if that limb was cut, but if the animal was born without that limb, it is permitted.”

Here, it is impossible to say that should it be born without a liver, it would be kosher, since it is impossible for it to be born without a liver. Thus, if she was found to have two livers, which is a possible occurrence as they Z”L have written, she is a *treifah*. Thus, even though the *Kesef Mishnah* holds that it could not be born without a liver, it could, however, be born with two livers, as was the case that involved some travelers from Amshport on their way to Amsterdam. They brought before me a chicken that had two livers, one on the right and one on the left; each liver was very large and contained the two parts that a liver is supposed to have. It was unusual also in that it had no crop at all, but rather its gullet extended until its gizzard.

This scholar also wrote: We can also see from the language of the *Kesef Mishnah* that any addition is impossible in the heart because “any additional limb is akin to one that was removed.”

This is entirely invalid, as no such statement appears or can be found in the words of the *Kesef Mishnah*. In fact, the opposite is explained in the *Kesef Mishnah*. As we proved above, and as the *Kesef Mishnah* himself wrote. Regarding what the *Kesef Mishnah* wrote: “Nevertheless, he included in his list of missing, removed, and extra limbs, only limbs that even when they are removed or deficient, the creature can still live a short time.”:

Even though he refers to extra limbs in the beginning of his comments, if you check, you will find that in the dispute over what is possible and what is impossible, he spoke only of the removed and missing, but regarding the extra limbs, he did not say - this is possible and this is impossible. The reason Maimonides did not list them is clear; since *treifot* resulting from an extra limb are derived from the [case of] a removed limb, once he did not list the primary case, namely a removed limb, since it is impossible, he also did not list the extra limb case, which is derived from it.

Regarding also what he said: “And the explanation that- he didn’t mention by liver the case of missing because it is an impossible case, but with regard to the heart, there is no one who disputes the law that just as it is a *treifah* if it is perforated, so too if it was removed, or mutilated. As [Maimonides] wrote in Chapter 6 “Any limb, which the sages said, renders a creature a *treifah* if it is at all perforated, also renders the creature a *treifah* through its complete removal, regardless of whether it is missing as a result of illness,

because it was removed manually, or because the creature was born without it.”- It is clear that this is a mistake since it is evident from his statements that it is possible to find such a case even though it is an unusual occurrence.”

I am shocked at this scholar that he alters and distorts, based on his own reasoning, clear books that have gained acceptance throughout Israel. If he had some difficulty that he could not find an explanation for, he should have attributed it to a deficiency of his own mind. He thinks there is an unanswerable problem in Maimonides, because Maimonides’s statements seem to contradict each other, since in Chapter 8, which I cited above, he wrote: “A limb regarding which it was said that if it was removed the animal is a *treifah* renders the animal forbidden only if that limb was cut, but if the animal was born without that limb, it is permitted.” This seems to contradict what I wrote above that: If it is born missing a limb, it is a *treifah*. He, therefore, decided, that there is a scribal error, may God forgive him. It is exceedingly clear, however, that there is no unsolvable difficulty here whatsoever, since the two cases are not equivalent. It was specifically with regard to a limb about which they said that if it were removed the creature is a *treifah*, implying that if it were perforated, it is kosher, that Maimonides was of the opinion that if the creature was born without it, it is kosher. With regard, however, to a major organ, whose *treifah* status is so serious that even if it were only slightly perforated, the creature is a *treifah*, Maimonides is of the opinion that the same ruling applies if the creature was born missing the organ - it is a *treifah*. If you examine the words of Maimonides you will find that this is clear to anyone of understanding. Now, I will respond to all his specific arguments; that is why I quoted his comments in their entirety.

Regarding what he wrote: “As opposed to the *Rashba* and those who follow him, who are of the opinion that ‘removed and missing [from birth]’ are considered equivalent, and the reason ‘missing’ was not written by liver is because it is an impossible case” - the words that he writes are nonsensical and impossible since the *Rashba* wrote explicitly in his comments on Maimonides, on the stated principle in: *Torat Ha’Adam*: “Another difficulty is that the liver is listed as one of the ‘removed organs’. Now if an animal is born without a liver, it is also missing a gallbladder, and the only reason we prohibited, when the whole liver was removed, was due to the absence of the gallbladder.” The *Rashba*, thus, explicitly wrote that a creature can be born without a liver, since otherwise the entire debate is theoretical and what kind of answer is he offering to resolve Maimonides since it is an impossibility. Clearly, once the *Rashba* debates the issue, and questions how Maimonides could permit it (according to the *Rashba*’s understanding in Maimonides as opposed to the *Kesef Mishnah*’s understanding in the rejected suggestion in Maimonides), it is a situation that he considers possible. That is the opinion of *Mahar”ai* in the *Terumat Hadeshen* 144: “But with regard to the liver and the junction of the sinews, even though their removal, physically or through illness renders the creature a *treifah*, they do not disqualify, if the creature was not born with them. That is why when he listed the liver, the junction of the sinews, and the upper jaw, he only listed one [of the types of *treifut*] in each, since if a part was missing or extra when it was first born, this does not disqualify it.”

Even though it is possible to challenge these comments of *Mahar"ai* with regard to his opinion that Maimonides holds that if the creature is born without an upper jaw, that it is kosher, since he follows the reasons that Maimonides Z"l wrote: "In its *treifut*: Since it is like a cover on a pot, and if it is removed, cold air will enter the lung, and it will die." Therefore, what difference does it make whether it was removed or the creature was born without it? That is one of the *Rashba's* arguments against him in *Torat Habayit*. I would like to respond and suggest on behalf of Maimonides Z"l that the removal of the upper jaw is parallel to the case of a squashed face and an incomplete body by a woman, which is considered an invalid birth also by an animal. If so, how can we render it kosher, since it is not a valid birth from the outset, but rather a *nefel* (a non-viable birth). Either way, we find that *Mahar"ai* Z"l shares the opinion of Maimonides that a creature without a liver can be born and that it is kosher. Thus, it is explicit that both the *Rashba* and *Mahar"ai* share the opinion of Maimonides that a creature can be born without a liver, as opposed to what this scholar wrote. Moreover, this scholar made what is possible, impossible and what is impossible, possible - by writing, with regard to the heart, which as everyone knows, one cannot be born without, that it is possible, and, with regard to the liver, which it is possible [to be without], according to the *Rashba* and *Mahar"ai*, that it is impossible. In addition, according to his opinion, the *Rashba* contradicts himself, since as I showed, the *Rashba* explicitly holds that a creature can be born without a liver, and he writes from his own logic that it is impossible. [His opinion] also raises a difficulty in the case of a cow with two hearts, since according to all opinions "a cow" cannot be less than two years old, as we learned in our mishnah: R. Eliezer says: A calf is one year old, and a cow is two years old. Our sages say: A calf is two years old and a cow is three. If so, how did this cow live [until two years old]? If you are of the opinion that "any additional limb is truly akin to one that was removed," - then it is impossible for it to remain alive for 12 months, if you are of the opinion that from the early stages of the [embryonic] formation, it had two hearts. You have no alternative but to say that it can survive with an addition, like the *Rashba's* final comments or that it gained a heart only after birth, and thus there is no proof.

Regarding what he said, "But with regard to the heart, no one disagrees that once it is perforated, that it is a *treifah*, and similarly if it was removed or became missing."

These comments are pointless. Is this what was being debated? Did anyone in the world have any doubts that if there were a case in which the heart was removed or was missing, that the creature is a *treifah*? Don't we even say that it is a *neveilah*, and that it defiles while still living. Rather, the whole point of our words is that it is inconceivable that a creature be born missing a heart, for it is impossible since all life and vitality are dependent on it. It is created first and no living creature could be created without it, just as it is impossible [for it to live] without it except in the manner I described in my first responsum. No one in the world has any doubts that not only is he a *treifah*, but also a *neveilah*. We simply are saying that this is the only possible way to conceive a case of 'removing the heart'.

He then troubled himself to copy the words of Maimonides from chapter 6, of the Laws of Shechitah: "Any limb, which the sages said, renders a creature a *treifah* if it is at all

perforated, also renders the creature a *treifah* through its complete removal...” commenting on this: “Nevertheless, it is apparent from his words that such a reality is possible.”

He is troubling himself for naught since there is no hint or intimation in all these words of Maimonides that it is possible to find a creature missing a heart, or to take a [creature’s] heart and he will live. Should we say that in establishing the principle that, “Any limb, which the sages said, renders a creature a *treifah* if it is at all perforated, also renders the creature a *treifah* through its complete removal,” he also meant to include the heart as a possible case, since it is one of the perforated organs that the sages listed? That is a ridiculous suggestion, since does Maimonides ever say that for each and every one of the perforated organs that the sages listed, it is necessarily possible that the creature could be born without them or have them removed and still live?! Rather, he Z”L established a principle that regarding all the perforated organs that they listed, if the creature should be born without them - in whatever cases that is possible - it is a *treifah*. This is clear to children and beginner students.

Regarding what he wrote about my proof from the Zohar: “Nevertheless, there is no proof for our discussion from the words of the Zohar. Can it be that because we draw this analogy, we should practice this leniency. First of all, the words of the Zohar refer to a human heart... since we won’t derive [laws] of man from animal, regarding *treifahs*. Just as the *Tosfot* write that we should not apply the laws of one to the other. Though the *Tosfot* conclude there, that this is specifically with regard to a detail in which there is a difference in the limbs, while if they are the same, then there is no difference. Nevertheless in our case, I also can find a distinction in the hearts, since man has intellect... and when it is removed, and he has no heart, it is as if all his limbs are no longer, since his knowledge and intellect have been taken from him... as opposed to an animal.” If you look carefully at the words of *Tosfot*, you will see that even R. Tam only suggested that while man can live, an animal cannot live. And *Tosfot* challenged even this [opinion] from the case (Chulin 43a): “What did the friends of R. Yossi the son of R. Yehudah rejoin to him [to prove that a punctured gallbladder is not a *treifah*? They said: “He pours my gall to the ground (Job16:13), and yet Job continued to live.” and from the case where a woman who had circumcised her son came before R. Natan...And I will add another proof from the case from the third chapter of Chulin (45), “In the school of Rav they taught: If the [nerve tissue] *nitmasmes* (became a pulpy mass), it is invalid, but if *nitmazmez* (it softened), it is kosher. The Gemara challenged this teaching from the case in which Levi was sitting in the bathhouse, and he saw a person bump his head. He remarked: This [person’s] brain *nitmazmez*. Did he not mean that [this man] would not live?” It is explicit that whatever condition a human being will not survive, an animal will also not. Even according to R. Tam, this is an *a fortiori* argument, since he is of the opinion that even a condition that a man will survive because he has ‘luck’, an animal will not survive. Therefore, in a case where man will not survive, even though he has luck, certainly an animal will not survive. We have never seen or heard any posek, either Rishon or Achron, suggest that a person will not survive but an animal will survive. The opposite appears in Gemara and the poskim: that man and animal are equal with regard to treifut and living, except that R. Tam holds that the animal is worse off from man, since

even in cases where man will live, the animal will not live. All the more so, a bird that possesses little life force, [as is evident from the fact] that its soul expires even [in cutting] just one *siman* [the windpipe or the gullet]. Since he concedes that man cannot live even one minute without a heart, like it is written explicitly in the Zohar, it is an obvious *a fortiori* argument that a bird too cannot survive even one minute without a heart.

With regard to what he wished to add from his own opinion, distinguishing between the heart of a man, upon which man's intellect is dependent, it is not for us to make up our own explanations when there is consensus in the gemara and all the poskim regarding the equivalence of man and animal in the matter of treifut. Moreover, this distinction is invalidated by force of the case in which the brain *nitmazmez*. I say this, expressly to settle his mind that if we are going to draw distinctions from our own logic, the opposite makes sense, since R. Eliezer, the author of this tradition in the Zohar is one and the same R. Eliezer ben Hurkanus, the friend of R. Yehoshua. And we found in the beginning of Yalkut Mishlei: "Where is intellect found? R. Eliezer says in the head. And even from the section there in the Zohar it is certain, since he wrote, "The heart is soft and weak and it sustains all the other organs...the other organs cannot compare to the king that is the wisdom and intellect that rests in the brain...Even R. Yehoshua, his challenger who holds that intellect is given in the heart, says in the midrash there: "Why was intellect given in the heart? Since all the limbs are dependent on the heart." The only way to interpret this is that since the life force of all the limbs is dependent on the heart, intellect was therefore given in the heart. Since it is absolutely impossible to say: Why was intellect given in the heart? Since that is where intellect was given. This is clear.

As far as that which wanted to expound the explicit words of the Zohar by way of euphemism and allegory, our holy forefathers and teachers have already instructed us not to remove any word of the words of Torah from its plain meaning – even in the Written Torah, whose words are unclear and obscure. As our sages of blessed memory have said, "A verse does not leave its plain meaning." And how upset was the father of Israel the Z"l, in Responsa 414, 415, and 416, at those who remove verses from their simple meaning. So much so, that wrath poured forth from him to smite them unto destruction. And not only concerning the commandments and foundations of the Torah [does this apply], but, rather, to the entire Torah. For the words of Torah were not meant to be distinguished one from the other. And this is the principle of the entire Torah and all the Prophets, except in a place where we are impelled by sense experience or logical proof that contradicts the verse's simple meaning. Or else, when the verses contradict each other. As R' Saadia Gaon Z"l writes in The Book of Beliefs [and Opinions] in the seventh section: "I found that he made promises about it in many places in Scripture. Even though it is reasonable to explain them in alternate ways, until they are displaced from the topic of Resurrection of the Dead to other topics, close inspection does not obligate that, since it is reasonable that logic will tolerate it. It is what we, all the Jewish people believe that everything that is in the books of the prophets is as it appears from its literal meaning and basing on what is known from its words. But what is known and appears from it brings us to one of four matters: Whether to deny sense experience... or to answer what is in the mind... or to contradict another matter, or to deny what our ancestors accepted."

And so, in our matter, which contains none of these four arguments - on the contrary, all these four issues are in line with the plain meaning – the words of the Zohar should not be removed from their plain meaning and implications. And though the words of the Zohar when it speaks of sublime and exceedingly esoteric matters are obscure and sealed with a thousand seals, in other matters its words are meant plainly, as is so in the entire Talmud and Midrashim. This is obvious.

Regarding that which this scholar wanted to compare this formulation of the Zohar to a verse written in Joshua - “Our hearts melted, and no more *ruach* [sometimes interpreted as life-force] remained in man (Joshua 2:11).” - I know of no worth or relationship between one and the other. Further, it is being proven from the language of Scripture, about which our Teachers of blessed memory have already taught: The language of Scripture and the language of the sages are separate entities. Let us learn it rather from the language of the Zohar itself, for all over it is an expression of actual life-force, as is known to those fluent and expert in the language of the Zohar.

In the book of Genesis: “Come and see: Although it is the nature of this blue-black light to consume all that comes in contact with it from underneath, Israel cleaves to it from underneath and survives, as it is written: “[You who did cleave to the Lord your God] are alive very one of you this day (Deuteronomy 4:4).”

In the section of Emor: “Come and see, all the years of Aaron's life Israel were under the shadow of Faith, under these clouds. After Aaron died, one cloud was gone.”

Furthermore, the parable must be similar to its analogy. Since in the analogy the meaning is actual, that the world cannot exist even one moment and its existence is impossible if not for Israel, as our sages have said in the first chapter of Taanit on the verse “Like the four winds of the heaven, I have spread you out (Zechariah 2:10)”: “Just as the world cannot be without winds, so the world cannot be without Israel.” And Rashi explains in order that it exist, as is written “If not for my covenant day and night I would not maintain the laws of the heavens and Earth.” Thus it is clear that if not for Israel the existence of the universe would be an impossibility, as we find in the verse cited by Rashi Z”L. This is actually clear in the words of the Gemara when it says “The universe cannot be without Israel.” ‘Cannot be’ means an impossibility. Now these are the very words of the Zohar: that the organs cannot exist at all, even for one moment, without the heart. Rather their existence is an impossibility. In conclusion, the words of the Zohar are simple and clear – that it is impossible for any organ in the body to be alive for even one moment without a heart. This is true for both human beings and all animal life in the world. For the life force of any living creature is in its heart. It is therefore placed in the middle of the body of man and beast, as mentioned in the Zohar. Regarding birds the matter is more clear, for its life force is small and with little cause it dies, as we say in the Gemara: “the bird, whose life force is small.”

And further, in the formulation of the verse in Joshua, “No more *ruach* remained,” our sages have already explained it to mean that they were even unable to achieve erection. Also, the word *ruach* does not refer to the soul that is the source of life force, but rather refers to a higher level of functions such as that control anger. Or else, it refers to the

will. The early authorities have already written at length on these matters. And Scripture further says 'a broken spirit (*ruach*)' and other such phrases. There is no need to write at length on these issues for they relate not to the formulation of the Zohar under discussion.

He further cited from the work *Sh'arei Shamaim* - and praised it for being mostly collected content from Maimonides' *Sefer Hanefesh* - and wrote that the source of motion is from the brain and not from the heart. Cited as proof was the fact that he once had a certain monkey that, after having its heart removed, continued to move for twelve hours. "Similarly it can be observed often among those bird catchers who remove the heart . . . and they fly afterwards a good while. And one of our trustworthy fellow Jews told me that he once saw people remove the heart of a bird and it jumped up and down a good while. This shows that movement is from the brain."

First of all, let me say that this scholar erred regarding what he saw in the introduction of the book, where the author said, "I have collected from *Sefer Hanefesh* of Maimonides Z"L." He did not understand that this refers only to the metaphysics, but not to the natural science. One who knows and studies a little science will know that what is written in *Sefer Sh'arei Shamaim* in this matter is the opinion of Galen, the name of the wicked should rot, but Aristotle, the name of the wicked should rot, holds that all depends on the heart. The opinion of Maimonides Z"L follows that of Aristotle, as is known, and as is made clear in *The Guide*, which we will cite below, with God's help, may He be blessed.

Now, even he who holds that movement is seated in the brain admits that the life force depends only on the heart. For about this no man has ever argued. As for that movement of the monkey for twelve hours, and the flying of the birds, if it is true, as well as for the jumping of that bird whose heart they removed and it jumped up and down, that is not life-force but merely twitching. And this is stated in a mishnah (Ohalot 1:6): "Man does not defile until his life leaves. Domesticated and wild beasts, also, are not unclean until their lives leave. If they were beheaded, even though they twitch, they are unclean – for example, the tail of a lizard that is twitching." On this Maimonides wrote: "This type of animal's tail will move a very great deal after it is cut off. Indeed, this will happen to some types of animals when the mobility force does not spread among the organs from one source and origin, but will be scattered throughout the body." Indeed, it will be called dead even though it twitches. This, then, is that shaking that the monkey was doing, and the flying and jumping of the birds. Further proof: for in that very book he wrote, in that same chapter, in the same place, "that sometimes they behead a man and his body will walk afterwards a limited distance. And so I was told by one of the greatest seekers of wisdom that he saw with his own eyes a man sentenced by the Crown to be beheaded, and he said to the king's servants that after the beheading he will walk until a certain designated spot, and so he did, falling just there."

It is indeed in a mishnah (Sotah 9:3): "If the head was found in one place and the body in another place, they carry the head to the body; such is the statement of R. Eliezer. R. Akiva says: they carry the body to the head." They explain in the Gemara (Sotah 45): "R. Isaac said: They differ whether a *meit mitzvah* (An unattended corpse - it is the duty of whoever finds it to be concerned with its burial). acquires his place; and thus he means to say: He acquires his place for burial, and where the head is found in one place and the

body in another...One is of the opinion that the body is in the place where it fell and the head rolled away, while the other (namely R. Akiva) is of the opinion that the head remains in the place where it falls while the body falls some way off.”

And it is known that the halachah generally follows R. Akiva, and so, indeed, have our teachers ruled. So it is that the body runs after beheading, even though he is certainly dead and defiles in a 'tent'. For even in a case of a broken neck and most of the flesh along with it, it defiles in a 'tent', as we said above. Certainly, then, if the head is completely severed, he is considered dead and defiles in a tent, even though he may run. Rather, then, perforce, movement is one thing and life is another. So it is, too, with a removed heart, even though it is considered dead - and man defiles in a tent while beast is considered *neveilah* – it is possible for it to run and move. And this is the 'twitching' mentioned in Ohalot. But even with all this [motion], it is dead, and not living, the distinction between movement, or twitching, and life being obvious to any living man.

e further wrote, citing the Gemara in the last chapter of Yoma (85a): “Until where does he check? Until his nose.” “And Rashi explained etc. from all this it is clear that it is possible to live without a heart, for the main life-force is the breath in his nose.”

It is surprising of him that, wanting to prove and make possible the impossible, he makes these [proofs]. He should have been very careful to bring proofs that cannot be refuted. But this proof is self-refuted, its nullification obvious. On the contrary, from this is a proof for our claim. For Rashi Z”L was careful to write “that one opinion says that by his heart we are to determine if there is in him life-force, for his soul beats there. The other opinion says [to check] until his nose, for sometimes the life-force is not noticeable in his heart, but is noticeable in his nose.” Behold, Rashi Z”L agrees with our position that the souls seat is in the heart, but that sometimes, even though the soul is still within the heart, the beating is not noticeable in the heart – i.e. externally on the chest – due to its great weakness. The heart is hidden beneath the chest and the beating is not noticeable externally on the chest since the beating is very weak inside. But the breathing coming from the heart by way of the lung is noticeable as long as the heart lives. It is a very clear thing that there is no breathing unless there is life force in the heart, that from it and for it comes breathing.

So, too, wrote R. Abraham Ibn Ezra on the verse: “and He breathed into his nostrils the breath of life.” Quote: “The meaning of 'in his nostrils' is that through them a man lives. For they dispel the hot air from the heat of the heart and bring in other air.” It is then clear that the reason life depends on the breathing of the nose is because it is through the nose that the hot air from the heart leaves, and cold air enters to cool the heart. And if there is no heart there is no breathing.

The Kuzari in the second section (chapter 26) writes: “The soul only connects with the natural hot spirit. It cannot do without a place to connect, like the connection of the flame to the head of the wick. The analogy to the wick is the heart. The heart needs a flow of blood etc. and so, too, the heart needs the lung, the throat, the nose, the membranes, and

the muscle that moves the chest muscle to produce breathing, in order to balance the condition of the heart with air and with the heart's exhaust.”

And the commentary *Kol Yehudah* writes: “Indeed, since His greatest creation is the heart, he made it the place of connection. For indeed it is what sustains all of them. It is the source and cause of all actions performed in man's body etc. for from it to all [organs] flows life, by way of the spirit that goes forth and spreads from it to all parts of the body. Without it, none of [man's] capacities can start themselves up.” He continues at length [in this matter].

And in chapter 25 of his commentary on the Kuzari's commentary of *Sefer Yetzirah* he wrote: “It does not mention the heart for it is the king, nor the membrane and lung for they are servants designated for it (that is, the heart).” And so too is written in *Sefer Sh'arei Shamaim* that the purpose of breathing is to cool the heart and that a certain great physician of the early authorities would check the condition of the heart through the breathing. And in *Sefer Shvilei Emunah* the author writes at length and says: “The heart cannot by any means manage in the absence of airflow. For if the drawing of air stops for a moment, it will expire due to its heat. That being the case, it is a necessity that it be cooled etc.” Now all of these things are agreed and sensed [by all] without a dissenter in the world.

Also R. Saadia Gaon Z”L, who was an exceptionally great scholar of both Torah and [general] wisdom in the days of the *gaonim*, in section 6 [of *Emunot v'Deot*], when discussing breathing, wrote that it is to relieve the natural heat in which the soul resides, in the heart - just as we blow away the harmful smoke from fire. It would be a debilitating task to record all that can be found in writing on this matter in the works of the earlier and later scholars. From all their words, though, we may learn that breathing is a need of the heart and if there is no heart there is no breathing. Just as if there is no fire there is no one who fans it. It is just that its powerful functioning is felt by us [also] in the nose. In *Sefer Tzeidah LaDerech*, section 1 chapter 1, the author writes: “The heart is the source of natural warmth and the vital spirit. It is what is first formed in man and it is always in motion. It is the origin of all movement that is found in the natural body. And if it desists for the blink of an eye, man will be as naught.”

We have already explained that the rules of man and beast are the same concerning *treifot* and life force.

Maimonides wrote in *Moreh Nevuchim*, part 1 chapter 39: “The heart is the name of the organ where life originates for every creature that has a heart... You shall love the Lord your God with all your heart. I explain that as, with all the powers of your heart, in other words all the powers of your body, for they have their origin in the heart.”

And in chapter 72 of that part he wrote: “Know that this universe in its entirety is nothing else but one human being...As the human body consists both of principal organs and of other members which depend on them and cannot exist without the control of those organs, so does the universe...Again, the principal part in the human body, namely, the heart, is in constant motion, and is the source of every motion noticed in the body: it rules

over the other members and communicates to them through its own pulsations the force required for their functions. The outermost sphere by its motion rules in a similar way...When for one instant the beating of the heart is interrupted, man dies and all his motions and powers come to an end...The living being as such is one through the action of its heart although some parts of the body are devoid of motion and sensation, as, e.g., the bones, the cartilage, and similar parts. The same is the case with the entire universe, although it includes many beings without motion and without life, it is a single being living through the motion of the sphere, which may be compared to the heart of an animated being. Bear in mind, however, that in all that we have noticed about the similarity between the universe and the human being, nothing would warrant us to assert that man is a microcosm; for although the comparison in all its parts applies to the universe and any living being in its normal state.”

Indeed it is quite clear in the words of Maimonides that for all animal life in the world its life force depends on its heart. And that if there is no heart, it is impossible for it to live even one moment. For the reason, existence was compared specifically to one man is because of the soul that he has more than any other animal. But concerning animal life force, which is dependent particularly on its heart – and that if its heart is absent it cannot live even one moment – in this all creatures – man, beast, bird, and fish – all are equal. Consequently, all of this scholar's arguments fall away.

In *Zohar Chadash* (folio 9a, Venice edition): “R. Azaryah said: The soul, its place is in the heart. And it makes move the entire body and it is placed in the middle of the body and radiates to the entire body etc. and the body exists [through] the soul, and the soul [through] the air, and the air [through] the Creator, may He be blessed.” Behold, everything we and all the scholars cited have said are explicit [here]. Who is it whose heart should delight in doubting clear things, that have always been agreed upon, and that are the first impression of all people.

This scholar further wrote: “There is no place to say that, no matter what, an animal lacking a heart is an impossibility. In any case, a case of an extra organ is possible to exist. And such a case the *Rashba* wrote about in a responsum. If this is the matter, it is nothing to speak of. First of all, *Maharshal* (ר"מ"ש) wrote to refute the opinion of *Rashba* in this, and wrote that the first answer is the preferred one: that it lives by way of miracle. And so decided the later authorities.”

He relies on the opinion of the *Shach* (Yoreh Deah 57:48) who wrote: “*Rashba* wrote that even though the reason for *treifah* is that such an animal does not live [twelve months], nevertheless, if one lives twelve months it is forbidden, for one may not deny in any way the words of our sages, Z”L, who said that it is *treifah*. It is implied by the words of *Rashba* there that we must say the fact that it lived twelve months perforce is due to a miracle.”

But one who looks carefully will see that the author of the *Shach* Z”L was not accurate. On the contrary, all the words of *Rashba* there rotate around the axis that we do not attribute [such things] to miracle.

Also, his statement that one may not in any way deny the words of our sages Z"l, who said that it is a *treifah*, is not precise. For what denial is applicable in a law or ruling that they, Z"l, hold is a *treifah*? The language of denial is applicable rather in the reality that they, Z"l, hold that someone who such an occurrence has happened to cannot live 12 months, if people come and offer testimony that conflicts with this reality. Regarding this, the Rashba strove in that same responsum all he did to bring clear proofs that one should not deny their words, Z"l, with regard to the reality that a *treifah* cannot live 12 months, under any circumstances. And anyone who testifies that he saw a *treifah* who lived 12 months lied. And even if a few will come and testify to this, they are false witnesses. That is the crux and the root that the Rashba, Z"l, struggled in his great wisdom to establish, as is clear to one who studies and scrutinizes his words well. I bring other proofs that we do not take into consideration miraculous events, even in a case that witnesses came and testified contrary to what is accepted as the natural course, we say that they are false witnesses, and nature exists, as we say in the first chapter of Rosh Hashana (20b): "If it began before midday, it is certain that it was seen close upon the setting of the sun, but if it did not begin before midday, it is certain that it did not appear close upon the setting of the sun. What difference does it make (in practice)? Answered R. Ashi, "To refute witnesses." And we don't say - it was a miracle. This is not only for the heavens, heavenly forces, and matters upon which the establishment of the holidays are dependent, but also regarding the nature of the human we say in the beginning of the sixth chapter of Niddah: "If the upper mark appeared before the lower one had made its appearance, even though this is impossible, R. Meir ruled, she may neither perform *chalizah* nor contract the levirate marriage; but the sages ruled, she may either perform *chalizah* or contract the levirate marriage." In the Gemara: "Though this is impossible etc.: It might have been presumed that - in most women the lower mark appears first and for a minority, the upper mark appears first. And that R. Meir is guided by his principle according to which he takes a minority into consideration, while the Rabbis are guided by their principle according to which they do not take a minority into consideration. And that this applies only to a general case, but where an examination was held and no [lower mark] was found, I might say, the Rabbis, agree with R. Meir that the upper mark has appeared first -, thus, we are informed that this is impossible and that the lower mark had undoubtedly appeared earlier but merely fell off." Here, even though the upper mark alone does not suffice for *chalizah* and betrothal, we nevertheless rely upon it (even though we check and no lower mark is found) for negative prohibitions, and prohibitions punishable by *karet* and capital punishment. And we do not say, perhaps it was a miraculous occurrence that the upper mark appeared before the lower one, and she is still a minor, and her *chalizah* is not a *chalizah* and her betrothal is not a [valid] betrothal, so that if she stretches out her hand and accepted betrothal money from another after the lower mark appeared, she will require a letter of divorce from the second one. Rather, since it is established that the upper [mark] cannot appear before the lower one - naturally, we do not take into consideration that it might have occurred miraculously. Even R. Meir, who takes a minority into consideration, does not take miraculous occurrences into consideration, even with regard to the stringent [case] of another man's wife. As we learn (Yevamot 121): "If a man fell into water, whether they had [a visible] end or not, his wife is forbidden [to remarry]. R. Meir said: It once happened that a man

fell into a large cistern and rose to the surface after three days. Rashi explained, that R. Meir is of the opinion that a man can survive in water for a day or two; in other words, *because* he is of the opinion that a person can naturally survive in water a day or two, but if [he were not of that opinion], even he would permit her to remarry. Rashi learned this precision from what was expanded on this in the Gemara: “It was taught: They said to R. Meir, ‘Miracles cannot be mentioned [as proof]’. What is R. Meir's reason? — R. Kahana said: There were arches above arches. The Rabbis [held], they were of marble [and thus too slippery]. And R. Meir [held], it is hardly possible that the man did not hang on and doze a while.” If you presume that R. Meir takes into consideration miraculous occurrences, why would I need all this [discussion]. It is, hence, absolutely certain that even R. Meir who takes into consideration the minority, does not take into consideration, miraculous occurrences, even with regard to the stringent laws of a married woman. In the beginning of the second chapter of Ketubot we learn: “Since most women get married as virgins, when no witnesses came what [is the law]? Ravina said: Because one can say: most women marry as virgins and a minority as widows, and whenever a virgin gets married, it is spoken about, and since this one was not spoken about, [the presumption that she belonged to] the majority has become shaken. The Gemara asks: But if whenever a virgin gets married it is spoken about, what difference does it make when witnesses come; they are false witnesses. Ravina replied [*Most* marriages of maidens are spoken about], etc. It is explicit that if they were of the opinion that *whenever* a virgin marries it is spoken about, and this one was not spoken about, even if witnesses came and testified that she was a virgin when she married, we would presume that they were lying because they were testifying the opposite of what is known and accepted, that whenever a virgin marries it is spoken about. And we would not say that this occurred miraculously, and these are honest witnesses. From all these cases it is proven that we do not take miraculous occurrences into consideration, as opposed to the opinion of the Rabbi, the author of the *Shach*.

From the statements of the *Maharshal Z”L*, there is also proof to our opinion that any additional limb is not actually akin to one that was removed, so that we would say that whenever a case of a removed or missing [organ] from the time of conception is impossible, so is a case of an additional [organ], since the *Maharshal* only veered from the *Rashba*'s distinction between additional to removed, by force of the difficulty that this resolution only applies to additional, etc. If not for this, the *Maharshal* would have surely conceded to the *Rashba* that his distinction between additional and removed is correct, and he would not have found the language of “any additional limb is akin to one that was removed,” which implies equivalent in everything, difficult, if not for the fact that the words of the *Maharshal Z”L* are confusing and the words of the *Rashba* are clear. But this is not the place to be lengthy since it is unnecessary for our discussion, since we already clarified that even if two came and said that this chicken had no heart, they are not believed since they are certainly false witnesses. Again we do not need the cat to be there, except as a backup answer to be used elsewhere.

I will bring another explicit proof that even where there is a *reiuta* (an alternate possibility that shakes our presumption), we assign the cause to what is commonplace to be lenient, and even an examination is not required. As we learned in the third chapter of

Chullin (51a): “There was a ewe in R. Chaviva’s house whose hind legs dragged behind her. R. Yeimar said: It has been seized by a cramp. Ravina challenged this: Perhaps, her spinal cord was severed. They examined her and found her to be as Ravina [had suggested]. And even so the halachah is in accordance with R. Yeimar. [Why?] A cramp is common while a [severed] spinal cord is uncommon.” It is explicit here that even though there is a *reiuta* of a severed spinal cord, we nevertheless assign the cause to a cramp, which is commonplace - thus permitting it, and not in the spinal cord - forbidding it. What opportunity for error remains after this proof? I certify that in my house there was an intelligent woman who was very knowledgeable about chickens. She opened a chicken’s stomach to remove the insides, and when she opened it and removed the insides, she didn’t find the heart. She called my wife and said to her: Look at this peculiar thing; this chicken has no heart. My wife told her to check and search on the floor. She checked and found the heart between the chips and pieces of straw that were there. The heart had fallen by itself, and the aforementioned woman had not noticed it fall even though she was very knowledgeable and careful. It is nothing new or unusual that the heart will fall to the ground when opening a chicken’s stomach, without being noticed.

With regard to this scholar’s challenges to my proof from a wolf whose intestines were removed, and it is uncertain whether it is a cat or a dog, I see no need to respond to them, since the arguments fall by themselves for anyone who studies the matter a little. And regarding his reservations about the trustworthiness of the girl, it is clear that what I already wrote in my short responsum suffices, and I even added more in my responsum to my father in law, *Moharam*, the Av Beit Din in the holy community of Prustiz.

However, what he wrote that we should believe her more since she is the daughter of the mistress of the house, as they said: “He who deposits, does so with the understanding that he is also depositing it with [his trustee’s] wife and sons.” That has no place here, since there the depositor knows that it is customary for his trustee to entrust his deposit to his wife and sons, and not only to his wife and sons, but also-his hired worker and his gleaner who are always in his house, in whose hands he entrusts everything he has- are considered like his wife and sons. While according to his opinion, one would be drawing distinctions in the laws of bailees with regard to trustworthiness, and that [argument] certainly sinks [away]. We will also not address what he raised about the law of transfer of the *eiruv* by agency of his son who is still a dependent, as I have no idea what the laws of *Shemittah* have to do with Sinai, since does a person want his son who eats at this table to be more trustworthy with what is his than he himself is. These are worthless comments, and God should enlighten us with the light of His Torah and grant us the ability to teach and learn Torah for its own sake in pure truth.

The junior scholar: Zevi the son of Yaakov who is called Zevi Ashkenazi