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Mishna

Whatever comes from a tree (such as cotton – according to Rashi), one may not use (as a wick) to light the Shabbos light with (for the flame is not steady), except flax. [Tosfos disagrees, saying that cotton may be used as a wick; the Mishna means to prohibit cedar — and other wicks made from actual trees, not plants.] And whatever comes from a tree cannot become *tamei* with the *tumah* of *ohel* (if the *tumah* source and a person or object is under the same roof), except flax. [In certain cases, the roofed structure itself is also *tamei*. This is what the Mishna is referring to.] (27b)

Tent

The Gemora asks: How do we know that flax is designated as a tree?

Mar Zutra said: It is because it is written: *But she (Rachav) had brought them up to the roof, and hid them (the spies) in the trees of flax.*

The Mishna had stated: And whatever comes from a tree cannot become *tamei* with the *tumah* of *ohel*, except flax.

The Gemora asks: How do we know it (that if the roof is made of flax, it becomes *tamei*)?

Rabbi Elozar said: It is derived through a *gezeirah shavah*¹ using the word ‘*ohel*’ – ‘tent’ from the Tabernacle. Here it is written: *This is the law when a man dies in a tent [ohel];* and there it is

written: *And he spread the tent [ohel] over the Tabernacle covering.* Just as there (the covering of) flax is designated as a ‘tent,’ so here too, (a covering of) flax is designated as a ‘tent.’

The Gemora asks: If so, just as there (by the Tabernacle), it (the thread) was twisted and the threads were sixfold, so here too (for the roof to become *tamei*), the threads must be twisted and sixfold!?

The Gemora answers: The repetition of the word ‘tent’ (in the verse regarding *tumah*) is an inclusion (that a tent made of flax can become *tamei* with roof-*tumah* even if it was not made in the same way as the covering of the Tabernacle).

The Gemora asks: If the repetition of ‘tent’ is an inclusion, then everything else (any other wood products other than flax) as well should be included?

The Gemora answers: If so, what benefit is the *gezeirah shavah*?

The Gemora asks: Yet perhaps we can say that just as there (by the Tabernacle) beams are referred to as ‘tent,’ so here as well, (a tent of) beams is meant (and any roof made of wood can become *tamei*)?

The Gemora answers: It is written: *And you shall make the beams for the Tabernacle:* the Tabernacle (covering) is called Tabernacle (meaning ‘tent’), but the beams are not referred to as Tabernacle.

The Gemora asks: If so, when it is written (regarding the covering of the Tabernacle made out of animal hides): *and you shall make*

¹ one of the thirteen principles of Biblical hermeneutics; it links two similar words from dissimilar verses in the Torah



a covering for the tent (*ohel*), is the covering indeed not designated as a 'tent' (for the verse states that the covering is for the tent; accordingly, a roof made of animal hides will not become *tamei*)? But then, let us consider that which Rabbi Elozar inquired: Can the skin of a non-kosher animal become *tamei* when it is overshadowing a corpse? Now, seeing that the skin of a kosher animal cannot become *tamei*, can there be any question of the skin of a non-kosher animal?

The *Gemora* answers: There it is different, because the Torah restored it (the cover – to a category of a tent), as it is written: *And they shall carry the curtains of the Tabernacle, and the Tent of Meeting, its covering and the covering of tachash that is above it*; thus, the upper covering (of the animal hides) is compared to the lower (of the goat's hair): just as the lower is designated as a 'tent,' so is the upper designated as a 'tent.' (27b – 28a)

Hide of a Non-Kosher Animal

The *Gemora* reverts to the text above: Rabbi Elozar inquired: Can the hide of a non-kosher animal become *tamei* when it is overshadowing a corpse?

The *Gemora* asks: What is his inquiry? [How can he think that it is subject to such *tumah*, seeing that he learns the definition of 'tent' from the Tabernacle, where the hides of only kosher animals were used?]

Rav Adda bar Ahavah said: His inquiry relates to the *tachash* (animal) which was in the days of Moshe - was it non-kosher or kosher?

Rav Yosef observed: Why is this even a question to him? We learned in a *braisa*: For the service of Heaven (seemingly referring to the Tabernacle), none but the hide of a kosher animal was declared fit. [Evidently, the *tachash*, which was used as a covering for the Tabernacle, was a kosher animal!]

Rabbi Abba asked from a different *braisa*: Rabbi Yehudah said: There were two coverings, one of reddened ram hides, and one of *tachash* hides. Rabbi Nechemiah said: There was one covering (consisting half of ram hides and half of *tachash* hides; this was placed on top of the covering of goat's hair), and it (the *tachash*) was like a *tela ilan* (an animal with a spotted, multicolored coat); but the *tela ilan* is non-kosher!

The *Gemora* answers: This is its meaning: like a *tela ilan*, which has many colors, yet not actually the *tela ilan*, for that is a non-kosher animal, while here, a kosher animal is meant.

Rav Yosef said: That being so, that is why we translate it (the *tachash*) as *sasgona*, meaning that it rejoices in its many colors (and it is not translated with its Aramaic name of *tela ilan*, for it is not actually a *tela ilan*).

Rava said: That the hide of a non-kosher animal can become *tamei* by overshadowing a corpse can be derived from the following, for it was taught in a *braisa*: [The Torah could have written] *skin* (teaching us that an animal hide could become afflicted with *tzara'as*); by stating 'or in an animal hide,' it extends the law to the hide of a non-kosher animal and to one which was smitten with *tzara'as* in the Kohen's hand (after it had been examined). If one cuts off (pieces) of all these and makes one (garment) out of them, how do we know it (that it is subject to *tzara'as* affliction)? It is from the verse: *or in any in any work of leather*. [Accordingly, there should be no distinction between a kosher animal hide and a non-kosher one with respect of *tumas ohel* as well!]

The *Gemora* asks: But this comparison can be refuted as follows: with respect to *tzara'as*, perhaps the reason is because the warp and the woof (thread) is susceptible to *tumah* (but corpse *tumah* can only become *tamei* if the cloth is woven; and accordingly, we cannot derive that *tumas ohel* applies by non-kosher animal hide)?

Rather, it is derived from the *tumah* of a *sheretz*, for it was taught in a *braisa*: It is written: Hide. I know it (that a dead *sheretz* can transmit *tumah* to) only of the hide of a kosher animal; how do I know it of the hide of a non-kosher animal? Therefore it is stated: *or a hide*. [Accordingly, there should be no distinction between a kosher animal hide and a non-kosher one with respect of *tumas ohel* as well!]

The *Gemora* asks: But this comparison can be refuted as follows: with respect to a *sheretz*, perhaps the reason is because they can transmit *tumah* with a piece the size of a lentil (but corpse *tumah* can only transmit *tumah* if the piece is the size of an olive, which is larger than a lentil; and accordingly, we cannot derive that *tumas ohel* applies by non-kosher animal hide)?

But, Rava continues that we can reply that the *tumah* of *tzara'as* afflictions can prove it (*for although a tzara'as affliction the size of a lentil will not transmit tumah to a garment (until the affliction is the size of a bean), it nevertheless can transmit tumah to the hide of a non-kosher animal*). And thus the argument repeats itself: the characteristic of one is not that of the other, and the characteristic of the other is not that of this one: the feature common to both is that the hide is *tamei* in their case, and the hide of a non-kosher animal was compared to that of a kosher animal; so also do I bring forward the tent of the dead, that the hide becomes *tamei* in its case, and the hide of a non-kosher animal is compared to that of a kosher animal.

Rava of Barnish said to Rav Ashi: But this (*the common characteristic of the two*) as well can be refuted: How can we compare to the feature common to both (*the tumah of tzara'as and the tumah of sheretz*), as they transmit tumah with a measure less than the size of an olive (*and perhaps that is why they are stricter that a non-kosher animal hide can also become tamei*); will you say (*the same*) of a corpse, which transmits tumah only by the size of an olive?

Rather, said Rava of Barnish, it (*that non-kosher animal hides are included in tumas ohel*) may be derived through a *kal vachomer* from (*a cloth made of*) plucked goats hair, as follows: [*A cloth made of plucked goats hair*] which cannot become *tamei* through *tzara'as* afflictions, yet becomes *tamei* by overshadowing a corpse; then the hide of a non-kosher animal, which does become *tamei* through *tzara'as* afflictions, surely can become *tamei* by overshadowing a corpse.

The *Gemora* asks: Then when Rav Yosef said: For the service of Heaven (*seemingly referring to the Tabernacle*), none but the hide of a kosher animal was declared fit; for what practical law was it taught?

The *Gemora* answers: It was in respect of *tefillin* (*that the parchments must be made from kosher animal hides*).

The *Gemora* asks: Of *tefillin* it is explicitly stated: *that the Torah of Hashem may be in your mouth*, meaning - of that which is permitted in your mouth (*and not a non-kosher animal*)?

Rather, the *Gemora* answers, it is in respect of their leather (*boxes*). [*For since no Torah is written on the leather boxes, they are not included in the verse cited above.*]

The *Gemora* asks: But Abaye said: The letter *shin* embossed on the head *tefillin* is learned from a *halachah l'Moshe mi'Sinai*. [*Since it is the first letter of Hashem's Name (shin, daled, yud), it is regarded as the written word of Torah, and therefore must be included in the verse cited above.*]

Rather, the *Gemora* answers, it is in respect of tying it (*the parchments of tefillin*) with their hair (*of kosher animals*) and sewing it (*the tefillin boxes*) with their tendons (*of kosher animals*).

The *Gemora* asks: But that is also a *halachah l'Moshe mi'Sinai*, for it was taught in a *braisa*: The requirement for the *tefillin* to be square is learned from a *halachah l'Moshe mi'Sinai*; tying it (*the parchments of tefillin*) with their hair (*of kosher animals*) and sewing it (*the tefillin boxes*) with their tendons (*of kosher animals*) (*is also learned from a halachah l'Moshe mi'Sinai*)!?

Rather, the *Gemora* answers, it is in respect of their straps (*that they must be made of the hide of a kosher animal*).

The *Gemora* asks: But Rabbi Yitzchak said: Black straps are learned from a *halachah l'Moshe mi'Sinai* (*and we may assume that the requirement of being made from the hide of a kosher animal is also learned from there*)?

The *Gemora* answers: Granted that (*the requirement to be*) black is learned from a *halachah l'Moshe mi'Sinai*; is the (*requirement of*) the hides learned from a *halachah l'Moshe mi'Sinai*?

The *Gemora* asks: What is our conclusion with respect to the *tachash* which existed in Moshe's days?

Rabbi Il'la said in the name of Rabbi Shimon ben Lakish: Rabbi Meir used to say that the *tachash* of Moshe's day was a unique species, and the Sages could not decide whether it belonged to the category of wild beasts (*chayah*) or to the category of domestic animals (*beheimah*); and it had one horn in its forehead, and it came to Moshe's hand just for the occasion, and he made the covering of the Tabernacle, and then it was hidden.



Now, since he says that it had one horn in its forehead, it follows that it was kosher (*for the rule is that horned animals are assumed to be kosher*). For Rabbi Yehudah said: The ox which Adam the first (*man*) sacrificed had one horn in its forehead, for it is written: and this is better before Hashem than the horned and hooved bull.

The *Gemora* asks: But ‘horned’ (*makrin*) implies two horns?

Rav Nachman bar Yitzchak said: ‘*Mi-keren*’ (*of a horn*) is written.

The *Gemora* asks: Then let us resolve that it is of a category of domestic animal (*for Adam’s one-horned animal was a bull*)?

The *Gemora* answers: Since there is the *keresh* (*a deer with one horn*), which is a species of beast, and it has only one horn, one can say that it (*the tachash*) is a kind of wild beast. (28a – 28b)

INSIGHTS TO THE DAF

May Non-Kosher Animals Be Used For Mitzvos?

In *Maseches Rosh Hashanah*, the Ran (end of p. 6a in Rif) is in doubt whether a shofar may be made from the horn of a non-kosher animal. This article will discuss why and how he came to this question.

Our *Gemora* states that tefillin may be made only from a kosher animal. This includes its parchments, leather boxes and straps, and the hairs and sinews used to sew it together. All must be taken from a kosher animal, as the *passuk* says, “So that the Torah of Hashem will be in your mouth.” Our Sages interpret this to mean that tefillin must be made from an animal that may be eaten.

The question thus arises whether this rule refers specifically to tefillin, or to all the mitzvos of the Torah. May objects used for other mitzvos be made from non-kosher animals? On one hand, the *passuk* refers specifically to tefillin. On the other hand, the *Gemora* discusses whether to apply this rule to the construction of the *Mishkan*. If it applies to the *Mishkan*, should it not apply to other mitzvos as well? Some Acharonim understood that the

Magen Avraham (O.C. 586, s.k. 3) indeed explained our *Gemora* to include all mitzvos. They all must be made from kosher materials.

The Maharitz Chiyus (21b) vehemently protested this conclusion. Did we not just recently list *kik*-oil among the oils that are unfit for Shabbos candles because it does not burn nicely? Shmuel explains that *kik*-oil is made from the fat of a *kik* bird, which the Rosh (citing the Yerushalmi) interprets to be the *kaas* (pelican?). The Torah explicitly lists the *kaas* as a non-kosher bird (Vayikra 11:18). Why then does the *Gemora* prohibit *kik*-oil only because it burns poorly? It is produced from non-kosher fat, and should be forbidden regardless of how it burns.

Rav Shmuel Segal *zt”l* (the Noda B’yhuda’s son, cited in Noda Biyhuda II, O.C. 3, s.v. *amnam yesh*) also objected to the Magen Avraham’s conclusion, citing a long list of halachos to disprove his ruling. For example, in *Maseches Sukkah* (23a) the *Gemora* states that one may chain down an elephant and use it as a wall for a sukkah. The elephant is a non-kosher animal, yet it may be used as material for the *mitzvah* of sukkah. We see that not all mitzvos have the same restriction as tefillin.

What then is the difference between tefillin and shofar, tzitzis, Chanukah candles, etc? Which mitzvos may be performed using non-kosher animals, and which mitzvos may not? A number of explanations have been suggested, including the following:

“Tashmish mitzvah” vs. “Tashmish kedushah”: Tefillin are *tashmishei kedushah* (holy-usage articles), whereas shofar is a *tashmish mitzvah* (*mitzvah*-usage article). Since tefillin contain parshiyos from the Torah, they are essentially holy, even if never used for a mitzvah. Therefore no part of them may be made from a non-kosher animal. Shofar, however, is not essentially holy. Its only distinction is that it is used for a *mitzvah*. Therefore it may be made from a non-kosher animal. (Maharitz Chiyus, *ibid*. The Magen Avraham can also be interpreted to refer only to *tashmishei kedushah* such as tefillin).

A shofar from a non-kosher animal should not be used: Accordingly, non-kosher materials may be used in the performance of mitzvos. For example, oil produced from non-kosher fat may be used for Chanukah candles. It would follow that the horn of a non-kosher animal may also be used for blowing shofar on Rosh Hashanah. However, the Remo



(Shulchan Aruch O.C. s. 586:1) rules that one may not do so. His source for this ruling is the Ran, cited above. The Ran explains that since the sound of the Shofar causes the merits of Israel to be recalled before Hashem, it is like the service of the *Beis HaMikdash*. Therefore, only the horn of a kosher animal should be used.

With this we can return to our original question; what was the Ran's uncertainty in regard to shofars from non-kosher animals? The *Gemora* discusses whether the *tachash*, whose hides were used in building the *Mishkan*, was a kosher animal, but it does not come to a clear conclusion. The only reason to prohibit using horns from non-kosher animals is the resemblance between shofar and the service of the *Mishkan*. If even in the *Mishkan* non-kosher animals were used, certainly a shofar may be made of them. Therefore, using a non-kosher shofar for Rosh Hashanah would depend upon the unresolved question of whether non-kosher hides were used in the *Mishkan*. (See *Biur HaGra* and *Machatzis HaShekel*).

DAILY MASHAL

Whatever Happened, Happened

Rabbi Elozar had asked whether the hide of a non-kosher animal is susceptible to the *tum'ah* of a roof. In qualifying Rabbi Elozar's question, Rav Adda bar Ahavah explains that since the concept of *tum'ah* of a roof derives its laws from the construction of the *Mishkan*, Rabbi Elozar wanted to know if any of the hides used in the *Mishkan's* construction were of non-kosher animals. Specifically, he asked if the *tachash*, the special animal that the Jews were given in the wilderness especially for the sake of the *Mishkan's* construction, was kosher. In answer, Rav Yosef cites a Tannaic statement that "nothing may be used in the service of Heaven except the skin of a kosher animal." Assuming the "service of Heaven" mentioned refers to the construction of the *Mishkan*, he shows that no non-kosher animal hides were used. Despite this Tannaic statement, which was presumably about the construction of the *Mishkan*, the *Gemora* derives from other types of *tum'ah* that non-kosher animal hides are, indeed, susceptible to the *tum'ah* of a roof. If so, asks the *Gemora*, for what purpose did the Tanna tell us that the service of Heaven was restricted to kosher hides?

The *Baalei Tosafos* ask a fascinating question: perhaps the Tanna simply meant to teach us that the *tachash* was a kosher animal?

Both they and Rashi answer the same way: "What happened, happened. (There is no point in mentioning this fact) unless it comes to teach us something." The Torah is not merely a collection of interesting facts, or a history of our beginnings. Every single word must contain a message that is relevant to the Jewish people. Unless we can learn *some* halachah from it, a Tanna shouldn't bother telling us whether the *tachash* was kosher or not. (We must remember that the *tachash* existed only for the sake of the construction of the *Mishkan*, and disappeared immediately thereafter. Thus, the question of whether we may eat it or not is moot.)

As opposed to the phraseology of Rashi, cited above, the language of the *Baalei Tosafos* here indicates that they might not object to the *general* idea of a Tanna telling us that the *tachash* was kosher – "It is implied that it comes to teach us a necessary halachah." In other words, something in the specific phraseology of the statement indicates that it was taught for a halachic reason. If this is, indeed, their intent, we are left asking why the rule cited by Rashi is ignored. Why, indeed, should a Tanna set down irrelevant information? Perhaps, *Tosafos* would point to all the other details regarding the construction of the *Mishkan* that were described in the written and oral Torah. Why do we need to know them? It seems apparent that if the Torah devoted so much space to their details, then we may learn important concepts from the laws of the *Mishkan's* construction, concepts that are applicable to the lives of Jews in every generation. If so, it is not implausible to suggest that whether the *tachash* was kosher, and thus whether non-kosher hides were permitted for the construction of the *Mishkan*, also contains a lesson that is applicable to us even now. Thus, *Tosafos* explains that the terminology used in Rav Yosef's *baraisa* implies that the teaching contained halachic relevance, as opposed to simply stating that without halachic relevance, the *baraisa* has no purpose.