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Items Consecrated by Non-Jews

The *Gemora* discusses the *braisa* about the status of items consecrated by non-Jews.

The *braisa* said that they are prohibited from benefit, but one who does benefit is not liable for *me’ilah* – misuse. [One who has unintentionally benefited from *hekdesh* or removed it from the ownership of the *Beis Hamikdosh* has committed the transgression of *me’ilah*, and as a penalty, he would be required to pay the value of the object plus an additional fifth of the value; he also brings a *korban asham*.]

The *Gemora* explains that the prohibition of benefit is Rabbinic, but one is not liable from the Torah for *me’ilah*, as the verse which discusses *me’ilah* uses the same word *chait* – sin as used when discussing *terumah* (the separation of a certain amount of produce which is then given to a *Kohen*). Just as *terumah* only applies to a Jew’s produce, so *me’ilah* only applies to items consecrated by Jews.

The *braisa* said that the prohibitions of *piggul* (a *korban* whose *avodah* was done with the intention that it would be eaten after its designated time), *nossar* (sacrificial meat that has been leftover beyond the time that the Torah designated for its consumption), and *tamai* – eating it when impure do not apply.

The *Gemora* explains that the verse discussing eating it while impure says that the *Kohanim* should separate from *kodshei b’nai yisrael* – the consecrated items of the Jews, excluding that of non-Jews. The same word *chilul* – profaning is used in connection with *tamei* and *nossar*, teaching us that the same

exclusion applies to *nossar*. Finally, the same word *avon* – sin is used in connection with *nossar* and *piggul*, extending the exclusion to *piggul*.

The *braisa* said that *temurah* – exchanging does not apply. The *Gemora* offers two possible reasons for this:

1. The section prohibiting *temurah* and discussing its rules opens with the verse telling Moshe to speak to *B’nai Yisroel*, excluding sacrifices of non-Jews.
2. The verse repeats the rules of *temurah* when discussing the sacrifice of *ma’aser* – tithing of animals, equating *temurah* with animal *ma’aser*. Another verse connects animal *ma’aser* with produce *ma’aser*, which only applies to Jews. We therefore exclude non-Jews from animal *ma’aser* and *temurah*.

The *braisa* cited Rabbi Shimon saying that they may not need libations, although their sacrifices must be brought with libations.

The *Gemora* cites a *braisa* explaining the source for this. The verse says that an *eizrach* – citizen must bring libations, excluding a non-Jew, while another verse discussing the libations states that a sacrifice must be brought *kacha* – like this, implying that all sacrifices are obligated. The resolution of these verses is that the non-Jew’s sacrifice must be brought with libations, but he does not bring them.

Rabbi Yosi said that all of these rules do apply to a non-Jew’s sacrifice. The *Gemora* explains that the verse which teaches that a non-Jew may offer a sacrifice concludes by referring to

all sacrifices as “to Hashem,” putting them in the same category as any other sacrifices offered to Hashem.

The *braisa* said that if the non-Jew consecrated items for the maintenance fund, one who benefits from them is liable for *me'ilah*. The *Gemora* explains that the exclusion from *me'ilah* was learned from the equation with *terumah*. Just as *terumah* refers to something which has inherent sanctity, so the *me'ilah* refers to benefiting from something with inherent sanctity, like a sacrifice, but not donations to the maintenance fund. (3a)

Passive Violations

Rav Yehudah says in the name of Rav that one is liable for lashes on a negative commandment only if he actively transgressed it.

The *Gemora* challenges this rule from the Mishna, which says that one who transgresses the prohibition of *temurah* – *exchanging a sacrifice* is liable for lashes, even though he just spoke, and didn't do an action.

The *Gemora* answers that this Mishna follows the opinion of Rabbi Yehudah who says that one is liable lashes even for a passive violation, while Rav's rule is according to the Sages.

The *Gemora* challenges this from the fact that we already stated that this *Mishna* does not follow Rabbi Yehudah, since it implies that an heir can transgress *temurah* on the deceased sacrifice.

The *Gemora* answers that the author of the *Mishna* agreed with Rabbi Yehudah about lashes for a passive violation, but disagreed with him about an heir transgressing *temurah*, as these are unrelated issues.

Rav Idi bar Avin quotes Rav Amram quoting Rav Yitzchak quoting Rabbi Yochanan saying that while one generally only is liable for lashes for an active violation, there are three passive exceptions, which are liable:

1. One who swears falsely
2. *Temurah*
3. One who curses a peer with the name of Hashem

Rabbi Yosi the son of Rabbi Chanina adds on one who separated *terumah* before *bikkurim* (*the first ripe fruits of any of the seven species with which the Torah praises Eretz Yisroel, which had to be brought to the Beis Hamikdash in Yerushalayim*).

The *Gemora* discusses the source for these exceptions.

1. Swearing falsely

Rabbi Yochanan quotes Rabbi Meir saying that the verse which says that Hashem will not cleanse one who takes His name (*by swearing*) in vain, implies that others, i.e., the earthly court, will cleanse him, by administering lashes.

Rav Pappa asked Abaye why we don't understand the verse to mean that he will not be cleansed at all. Abaye answered that the verse should have then said that he “will not be cleansed.” Since it said that *Hashem* will not cleanse him, it implies that others will.

Rabbi Yochanan himself explains that although this verse only discusses an oath in vain, the repetition of the word *lashav* – *for nothing* includes even a false oath.

Rabbi Avahu explains exactly which case we are referring to. It cannot be a case of one who swore that he would not eat, and then ate, because that is an active violation. It cannot be a case of one who swore he would eat and then did not, as all agree that one is not liable, whether because it is a passive violation, or because there is never a point when he can be given a definitive warning that he will transgress. Rather, it is the case of one who swore falsely about the past, e.g., swearing that he ate when he did not.

Rava explains that since we learn this from the verse about an oath in vain, which is about the past, it stands to reason that the false oath is also one about the past.

The *Gemora* challenges this from the *Mishna* in Shavuot. The *Mishna* says that if one repeatedly swore not to eat a loaf, and then ate it, he is liable once, as one oath cannot take effect on an existing one. The *Mishna* concludes that this is a case of an oath of expression, in which one is liable for lashes for an intentional violation, and a sacrifice for an unintentional one. The *Gemora* says that this conclusion implies that there is another case of a false oath, for which one is not liable for lashes. The *Gemora* assumes that the case excluded is one who falsely swore about the past, proving that one is not liable for lashes.

The *Gemora* deflects this, saying that the excluded case is a false oath about the past, but it is only excluded from a sacrifice when done unintentionally, following the opinion of Rabbi Yishmael, who says that a sacrifice is only for an oath about the future.

The *Gemora* then challenges this from the latter part of the *Mishna*, which discusses an oath in vain. The *Mishna* says that this is a case of an oath in vain, for which one is liable for lashes if transgressed intentionally, but nothing if done unintentionally. This conclusion also excludes another case, which is not liable for lashes. The *Gemora* assumes the case excluded is a false oath about the past, proving that one is not liable for lashes.

The *Gemora* deflects this by saying that the excluded case is a false oath about the future, and it is being excluded from the case of unintentional violation. The *Mishna* is teaching that one is liable for a sacrifice for an unintentional violation of such an oath, following

the opinion of Rabbi Akiva, who says that a sacrifice is for this oath as well.

Although the *Gemora* had deflected the beginning of the *Mishna* by saying it followed Rabbi Yishmael, the *Gemora* now revises its answer to say that both sections follow Rabbi Akiva. The first section is excluding the case of one who swore to eat a loaf, and then did not eat it, and the exclusion is teaching that one is not liable for lashes for an intentional violation. The reason for assuming these exclusions is that the tense of the sections. The first section, which is discussing an oath about the future, excludes an oath about the future, while the second one, which is discussing an oath about the past, excludes another one about the past.

2. Temurah

The *Gemora* says that Rabbi Yochanan corrected one who taught these words, telling him to omit *temurah* from the list of exceptions. Although it is done by only speech, this speech is akin to an active violation, as it has a substantive effect, making another animal consecrating.

3. One who curses his peer using Hashem's name

Rabbi Elozar quotes Rabbi Oshaya saying that the source is the verse which states that if you will not guard the mitzvos "to fear the honored and awesome name of Hashem, Hashem will *hifla* – make wondrous your strikes." The *Gemora* explains that the word *hifla* refers to lashes, as the verse describing lashes states *v'hipilo hashofet* – and the judge will make [the liable one] prone and hit him, using the word *hipilo*, which is similar to *hifla*. The verse therefore indicates that one is liable for not fearing Hashem's name, which includes one who curses with it.

The *Gemora* asks why we don't understand the verse to apply to any use of Hashem's name, even for a true oath.



INSIGHTS TO THE DAF

The *Gemora* answers that the verse already mandates that a guardian who claims that the deposited item was stolen swears that this is so, teaching that one may swear truthfully.

The *Gemora* rejects this source, as perhaps it is a violation, but we allow it to assuage the item's owner.

The *Gemora* then answers that the verse also says that one should swear in Hashem's name, teaching that one may swear truthfully.

The *Gemora* rejects this proof, as perhaps that verse is limited to swearing to fulfill a *mitzvah*, as a form of self-motivation.

The *Gemora* answers that there are two verses stating that one may swear using Hashem's name, thereby including even a true oath in the course of litigation.

The *Gemora* challenges the source, saying that perhaps it is limited to one who says the name of Hashem in vain, but not one who cursed with His name.

The *Gemora* explains that although one who cursed with His name also used it in vain, perhaps he should not suffice with lashes, due to the more severe nature of his violation.

The *Gemora* deflects this, as there is no explicit negative commandment simply saying Hashem's name in vain, so this cannot be liable for lashes. However, there is an explicit negative commandment against cursing a peer, making it liable for lashes. (3a – 4a)

Sacrifices vs. Maintenance Fund

The *Gemora* discusses the *braisa* which cites the dispute between Rabbi Shimon and Rabbi Yosi about the status of items consecrated by a non-Jew. Rabbi Shimon excludes them from many of the rules of consecrated items, while Rabbi Yossi includes them. The *braisa* then says that this is true only of items consecrated as a sacrifice, but not of items pledged to the maintenance fund.

Rashi explains that this statement of the *braisa* is made by Rabbi Shimon, indicating that he only places these limitations on sacrifices of non-Jews, but not their pledges to the maintenance fund.

Tosfos (2b bameh) cites Ri, who says that the statement is made by Rabbi Yossi, indicating that he is only disputing their sacrifices, but he agrees to Rabbi Shimon in the case of their pledges to the maintenance fund.

Hashem's Name in Vain

The *Gemora* states that the source for lashes for one who curses his friend with Hashem's name is the verse which states that Hashem will punish one who does not fear His name. The *Gemora* suggests that this may only refer to one who uses Hashem's name in vain, but not to one who actually curses with His name. Perhaps one who curses with His name has violated both the prohibition of cursing and saying Hashem's name, and therefore lashes is insufficient. The *Gemora* answers that there is an explicit negative commandment for cursing, while the prohibition of using Hashem's name is simply a violation of the active commandment to fear His name.

Rashi offers two readings of the *Gemora's* conclusion:

1. The *Gemora* is giving one answer, saying that lashes cannot be referring to saying Hashem's name, as that is a positive commandment. Therefore, it must be

referring to cursing, which is a negative commandment.

2. The *Gemora* is giving two possible answers:
 - a. Although one who curses with Hashem's name has violated two prohibitions, the verse equates one who curses this way with one who simply curses without Hashem's name. We learn from this equation that just as one who simply curses gets lashes, so one who curses with Hashem's name gets lashes.
 - b. There is no negative commandment about saying Hashem's name, and therefore it is not liable for lashes.

The Poskim discuss the parameters of saying Hashem's name in vain. Saying it is prohibited even in other languages (MB 85:10). When one is teaching children to say *brachos*, one should use Hashem's name (OH 215:3), but not answer *amen* unless it is a real *brachah*. However, when adults are learning about a *brachah*, one should not say Hashem's name.

The Poskim discuss whether one may or should say Hashem's name in the course of reading verses in *Gemora* or other areas of Torah. See MB 215:14, Igros Moshe OH 2:56 and Yabia Omer 3:14.

Baruch Shem Kevod Malechuso Le'olam Va'ed – When and Why?

In this article we shall become familiar with the Rishonim's opinions regarding the prohibition of pronouncing a *brachah* in vain and saying *Baruch shem kevod malechuso le'olam va'ed* after mentioning Hashem's name in vain.

Should one say *Baruch shem* after mentioning Hashem's name in vain? The Yerushami (Berachos 6:1), the Rishonim (Tosfos, Berachos 39a, s.v. *Bezar*) and the *halachah* (*Shulchan 'Aruch*, O.C. 25:5 and 206:6) assert that he who pronounces a *brachah* in vain should immediately say *Baruch shem kevod*

malechuso le'olam va'ed. This Yerushalmi and the following *poskim* refer to a person who said a *brachah* in vain mentioning Hashem's name. And what about a person who erred and mentioned one of Hashem's names for no reason but by itself, without a *brachah*? Indeed, Rambam writes (*Hilchos Shevu'os* 12:11) that he should immediately praise Hashem "so that it shouldn't be mentioned in vain" (see *Kesef Mishneh*, who mentions the Yerushalmi as a source) while the *Tur* and *Shulchan 'Aruch* ignore this case and don't rule that that person must praise Hashem. We thus have basis to discuss whether the *Tur* disagrees with Rambam and holds that he who mentions Hashem's name in vain shouldn't say *Baruch shem*.

HaGaon Rabbi Yitzchak Arieli zt"l explains the matter wonderfully (*Einayim Lamishpat*, Berachos 39a) while he includes a principle disagreement of the Rishonim about the source of the prohibition to pronounce a *brachah* in vain and the reason for saying *Baruch shem* after a *brachah* in vain. Let us examine his explanation step by step.

A disagreement about the source of the prohibition of a *brachah* in vain : We became familiar with the prohibition of a *brachah* in vain six years ago when we leant Berachos (33a). However, there's a great disagreement among the Rishonim as to if the prohibition is as severe as mentioning Hashem's name in vain and the prohibition is from the Torah – as Rambam maintains – or, perhaps, there's no prohibition concerning this from the Torah because he who pronounced the *brachah* said Hashem's name in praise – e.g., someone who pronounces *Baruch atah...shehakol niyah bidevaro* when not eating or drinking – did he mention Hashem's name in vain? After all, he praises Hashem that everything comes about by His word but, still, a prohibition of the *chachamim* pertains to the instance because he pronounced the *brachah* not according to their instructions, as they determined when to pronounce it. Tosfos maintain so (see Rambam's Responsa, 105, and the *Magiah*, and *Magen Avraham*, 215, S.K. 6, and there in *Machatzis HaShekel* and *Eliyah Rabah* and *Mishnah Berurah*, S.K. 20, and Tosfos, Rosh

HaShanah 33a and *Sdei Chemed*, *kelalim*, *ma'areches beis*, *klal* 115).

The reason for saying *Baruch shem* after a *brachah* in vain

:If we want to examine the Rishonim for a reason for saying *Baruch shem* after a *brachah* in vain, we find in Rambam and the *Tur* two different reasons. Rambam states (*Hilchos Berachos* 4:10) that one should say *Baruch shem* after a *brachah* in vain “so as **not** to mention Hashem’s name in vain” while the *Tur* (*O.C.* 206) writes that he must say *Baruch shem* “**because** he mentioned Hashem’s name in vain”. It seems from Rambam that saying *Baruch shem* causes that mentioning Hashem’s name won’t be in vain as he immediately praised Hashem and, as Rambam says (*Hilchos Shevu’os*, *ibid*), “he should rush immediately and praise and glorify Him so that it won’t be mentioned in vain.” On the other hand, according to the *Tur*, saying *Baruch shem* only serves to **atone** for mentioning Hashem’s name in vain, that “because he mentioned Hashem’s name in vain, he should therefore accept the yoke of the kingdom of Heaven” (see *Aroch HaShulchan*, *O.C.* 206:16).

Insufficient atonement: Therefore we can understand that according to the *Tur*, who maintains that saying *Baruch shem* serves as an atonement, it was instituted only after saying a *brachah* in vain which, in his opinion, is only forbidden due to a Rabbinical decree but it doesn’t suffice to atone for mentioning Hashem’s name in vain, which is forbidden by the Torah. On the other hand, Rambam maintains that saying *Baruch shem* averts the prohibition and completely removes it. Just as it removes the prohibition of a *brachah* in vain – which, in his opinion, is from the Torah – it also removes the prohibition of mentioning Hashem’s name in vain.

The period of time for saying *Baruch shem* after a *brachah* in vain

:Another halachic implication results from the two reasons, according to Rav Arieli: What is the period of time after mentioning Hashem’s name in vain in which one can say *Baruch shem*? Apparently, according to Rambam, that saying *Baruch shem* is meant to give meaning to Hashem’s name

which was just said in vain, only if he rushes and praises Hashem, these praises will be joined to Hashem’s name and will cause that it wasn’t said in vain but if he says *Baruch shem* after a while, it has no use and thus indeed it seems from Rambam (see *Einayim Lamishpat*, *ibid*). This is the opinion of *Shibolei HaLeKet* and *Tanya*, that one must say *Baruch shem* within a very short while (*toch kedei dibur*) after mentioning Hashem’s name in vain. However, it is logical to assume that according to the *Tur*, that saying *Baruch shem* serves as an atonement, it suffices to say *Baruch shem* within a time not entirely separated from the *brachah* in vain for he only intends to repent.

DAILY MASHAL

You Can’t Erase

“For Hashem will not cleanse the person who mentions His name in vain.” Why? People say in the name of the *tzadik* Rabbi Meir of Premishlan zt”l: All the sins a person commits are written in the book of remembrances and when he repents, they are erased. However, when a person swears by Hashem’s name in vain, this sin cannot be erased as one cannot erase Hashem’s name... (*Divrei Meir*).