

YESHIVAT HAR ETZION
ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

TALMUDIC METHODOLOGY
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The Prohibition of Mashkeh Yisrael - Offering Korbanot from Forbidden Substances

In several locations the gemara establishes a halakha known as mashkeh yisrael - literally the drink of the Jewish people. This phrase is employed by a pasuk in Yechezkel chapter 45 to qualify korbanot in general. From this term, the gemara induces that all korbanot must be composed of materials which are permissible to eat or drink - min ha-mutar le-yisrael - items which we are allowed to eat. The gemarot in Menachot (5a, 6a) disqualify tevel (grain before terumot and ma'asrot have been designated), and tereifa (an animal which cannot outlive a year) from being offered as korbanot. The gemara in Chullin (90b) considers the ramifications of this halakha for gid ha-nasheh as a korban, while the gemara in Temura (29a) addresses an animal which was worshipped as avoda zara. The Rishonim elaborate upon these and other cases and this article will explore the nature of this issur based upon this material.

Does this halakha essentially extend the prohibition of consumption from 'man' to 'mizbei'ach?' Just as we are not allowed to eat these items, similarly we are not allowed to 'feed them' to the mizbei'ach. Or might we view this halakha as a unique 'kodoshim' rule? There are many disqualifications governing korbanot unique to the world of korbanot. One such law might pertain to forbidden items. Any such forbidden material becomes invalid for a korban - on its OWN terms. Said otherwise, is this halakha an extension of the basic issur for people to eat these forbidden items, in which sacrificing is deemed a different form of eating? Or do we recognize a new disqualification which happens to be formatted upon the extant prohibition regarding humans? Obviously, we would want to isolate seeming discrepancies - cases where it is forbidden for human ingestion but not considered 'mashkeh yisrael,' as well as inverse cases - where it might be classified as mashkeh yisrael even though humans can eat it. The existence of such cases might indicate the independence of this issur.

The gemara in Zevachim (88a) forbids the use of korbanot from dimu'a - a mixture of teruma and chullin. Such wheat cannot be used in the offering of a korban mincha. Rashi justifies this halakha based upon the rule of

mashkeh yisrael. Tosafot (s.v. Min) contest Rashi's position: after all, this mixture is permitted to be eaten by kohanim - hence it should be allowable as a korban for those same kohanim. Instead, Tosafot claim that this gemara refers to a mixture of orla and permissible produce. Indeed, such a mixture would be considered mashkeh yisrael since it is forbidden to both kohen and yisrael alike.

Rashi and Tosafot could conceivably disagree about the nature of mashkeh yisrael. If we view it as an extension of the human issur, we might allow kohanim to offer sacrifices from materials which they can eat - as Tosafot claim. If, however, we affirm mashkeh yisrael as an independent rule which disqualifies 'forbidden' materials as korbanot, we might include dimu'a in this law even though kohanim can eat it. It still might be defined as inherently 'forbidden food' even though one segment of the population can eat it.

Perhaps we can locate a reverse situation - in which no one can eat the item, but it still might not be considered as mashkeh yisrael. The gemara in Sukka (48b) invalidates wine or water as a korban, if it remained exposed for a period of time. During this period, a serpent might have tasted the wine and ejected its poison into it. Rashi explains that the necessary volume of actual wine might have indiscernibly been diminished to be replaced by some poison. The Yerushalmi offers a different reason - this wine may not be drunk by a Jew since it is potentially dangerous. If a person cannot drink it, it may not be offered as a korban.

This situation might provide an additional litmus for our question. If mashkeh yisrael equates human ingestion with that of the mizbei'ach we might prohibit such the wine within our halakha - as the Yerushalmi did. If, however, we recognize a new rule that ma'akhalot asurot (halakhically forbidden foods) are invalid for korban, we might limit the rule to items which are intrinsically forbidden. Endangering yourself by drinking exposed liquids does not violate a specific halakhic category. Instead, chakhamim encouraged and demanded that we act safely and responsibly - see the Rambam Hilkhhot Rotzeiach U-shmirat Nafesh chapter 11. We would not, however, consider such drinks inherently forbidden. Hence, by not recognizing them as 'ma'akhalot asurot' we would not extend the issur of mashkeh yisrael to them. Rashi might have viewed mashkeh yisrael as a new halakha disqualifying ma'akhalot asurot as korbanot. He included dimu'a even though theoretically some people can eat it and excluded exposed drinks even though no one can drink them. These discrepancies would thus highlight the independent nature of this halakha.

A parallel situation might emerge from Tosafot's comments to Chullin 140a (s.v. Limutei). The gemara disqualifies birds belonging to an ir ha-nidachat for use in the ceremony of the metzora. (A metzora upon concluding his 'term' carried two birds to the mikdash. One was sacrificed and the other was dipped in the blood of the first and subsequently set free. See Vayikra 14). The gemara furnishes a special pasuk for this purpose. Tosafot question the need for a special derivation - after all, property of an ir ha-nidachat is forbidden. Hence, the birds should be disqualified for a korban based upon mashkeh yisrael!!

These birds might present a situation similar to uncovered wine. They do not qualify as ma'akhalot asurot in the strict and formal sense that neveila or a mixture of meat and milk does. Items of ir ha-nidachat are forbidden due to their association with the town that worshiped avoda zara. Indeed, we cannot derive benefit from them and must burn them. Yet, we must wonder whether they are considered 'inherently forbidden' and included within the rule of mashkeh yisrael. Might Tosafot have viewed mashkeh yisrael as a natural extension from the prohibition of a Jew's consumption of such items to that of the mizbei'ach? Anything that I cannot practically eat, whether inherently forbidden or based on external factors such as water which is possibly poisoned, or ir ha-nidachat items which must be burnt, cannot be offered on the mizbei'ach.

A third example of an item which might not be intrinsically defined as forbidden but practically cannot be eaten might be found in the gemara Menachot (84a). Though shemitta fruits may be eaten, they cannot be hoarded, guarded or stored. This halakha stems from the pasuk "ve-akhlu evyonei amekha" - "your impoverished should eat the [hefker] fruits during this year." This rule is known as 'meshumar' or watched fruits. The gemara in Menachot (84a) discusses appointing a watchman during shemitta to guard the barley which will be used for the korban omer. Tosafot interject that these watched fruit which as a result cannot be eaten, should not be valid for the korban omer based upon mashkeh yisrael. These fruits are clearly not 'ma'akhalot asurot' - inherently prohibited. Instead, eating them would constitute a violation of proper shemitta conduct. By eating these stored fruits I am not implementing the hefker policy of shemitta. We might object, however, to these fruits being included in the mashkeh yisrael rule. Tosafot, as we have seen, might have adopted a broader definition of mashkeh yisrael; anything which I can't eat for whatever reason, intrinsic or incidental, I cannot offer on the mizbei'ach.

Summary:

We have seen two types of cases in which we considered the applicability of mashkeh yisrael. In the first case, we examined a substance which can be eaten but may not be valid for a korban (teruma mixtures). Alternatively, we examined situations in which the food may not be eaten but the substance might still be valid (exposed liquids, animals of ir ha-nidachat, and shemitta fruit which was guarded).

In conclusion, we might consider a different question - which types of 'korbanot' are included within the precept of mashkeh yisrael? We have already seen Tosafot's comments in Chullin regarding the relevancy of mashkeh yisrael to the birds of metzora - even though these birds were not actually sacrificed on the mizbei'ach. A similar question is raised by the Mikdash Dovid (Rav Dovid Rappaport - May Hashem avenge his blood) who questioned the applicability of mashkeh yisrael regarding the sa'ir la-azazel – the goat of Yom Kippur which was sent into the wilderness to be pushed off a cliff. This animal, though involved in the mikdash ceremonies, was not actually brought on the mizbei'ach. If we view mashkeh yisrael as extending our issur of eating to the consumption of the mizbei'ach, we might exclude these marginal korbanot from this law. The mizbei'ach is in no way consuming these materials and the prohibition should not apply. By contrast, if we define mashkeh yisrael as an independent standard – items of ma'akhalot asurot cannot be used for sacrifices - we might have a broader definition of korbanot which are included in this issur.

A related question raised by the Mikdash Dovid would pertain to sacrifices offered by Gentiles. Firstly, would the principle apply at all? If it does, would items forbidden to Jews but permissible for Gentiles be valid for a korban of a Gentile? How would our discussion about the nature of this issur affect this question?

METHODOLOGICAL POINTS:

1. If we question whether a halakha is based upon factor 'a' or factor 'b,' the vital test cases include cases of 'a' and not 'b' or cases of 'b' and not 'a'.

2. The essence of a halakha should influence its scope. The nature of the issur 'mashkeh yisrael' might impact upon WHICH types of ISSURIM cannot be offered and possibly upon WHICH types of korbanot are affected by the issur.

Shabbat Shalom
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