

TALMUDIC METHODOLOGY
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Shiur #02: Defining the Prohibition of *Bal Te'achar*
Part 2

In a [previous shiur](#), we introduced the basic question surrounding the *issur* of *bal te'achar*, the prohibition of delaying *korbanot* and *hekdesh*-related obligations. Is the *issur* defined as delaying obligations (possibly initiated through verbal declaration, or possibly even autonomous obligations)? Or does the prohibition consist of withholding monies belonging to *hekdesh* or *hekdesh*-like accounts? Several cases in which the latter possibility was not relevant were considered for possible *bal te'achar* application. In this *shiur*, we will explore additional issues of *bal te'achar* that may stem from this fundamental question.

The *gemara* in *Rosh Hashana* (5b) applies *bal te'achar* to the delay in processing a first offspring (*bekhor*) of a *korban*-suitable animal. It is not clear from the *gemara*, however, at which stage *bal te'achar* sets in. Does it legislate the delivery of the animal to the *Kohen*, demanding that it be given prior to the passage of three *regalim*? Or does it govern the second phase, during which the *Kohen* must deliver this animal as a *korban*, similar to any other *korban*? Although the *gemara* does not address this question, the Chakham Tzvi (12) and the Minchat Barukh (104) each discussed this issue. Presumably, this question emanates from the fundamental definition of *bal te'achar*. If the prohibition surrounds the delivery of “owned” assets, *bal te'achar* would affect the initial stage, during which a person must deliver the animal to the *Kohen*, its rightful owner. If, however, the *issur* governs the performance of the *mitzva* obligation, it would govern the second stage – the actual performance and conclusion of the *mitzva*.

The assumption that the question of which stage of *bekhor* is governed by *bal te'achar* is really a question relating to the nature of *bal te'achar* may generate some interesting secondary applications. For example, would *bal te'achar* apply to a *bekhor* born with a *mum* (blemish) that renders it unfit for a

korban, although it is still the property of the *Kohen*? If *bal te'achar* is essentially a prohibition to withhold assets, it probably would apply. What about the reverse case of a *bekhor* born to a **Kohen**, which also must be offered as a *korban*? Since the animal is in possession of its rightful owner, no assets are being **withheld**, and that model of *bal te'achar* therefore should not be relevant. Potentially, however, the alternate version of *bal te'achar* – delay in performing a *korban*-based *mitzva* – may apply. These interesting test cases are suggested by the Kehillat Ya'akov in his commentary to *Rosh Hashana*.

A similar question arises from an interesting position of Rabbenu Tam surrounding the application of *bal te'achar* to *tzedaka*. Does *bal te'achar* govern the stage of delivering pledged monies to the charity distributor (*gabbai*), or does it govern the stage of **his** delivering these monies to actual poor people? Conceivably, this is an identical question to the application of *bal te'achar* to *bekhor* regarding which stage of *bekhor* it governs. Rabbenu Tam (cited by Tosafot, *Rosh Hashana* 4a) claims that once funds have been deposited with the *gabbai*, no *bal te'achar* exists regarding further distribution to poor people. Evidently, he viewed *bal te'achar* as withholding of funds; once the funds are credited to the *gabbai*, they are not being withheld from their proper account.

This position of Tosafot is premised on the notion that *tzedaka* monies legally belong to an estate of poor people, which is represented by the *gabbai* distributor. This question is debated and affects issues such as whether this money can be loaned with interest (see Beis Yosef, *Yoreh De'ah* 160, quoting the Rashba), as well as whether classic laws of *shomer* apply to charity funds (see *Teshuvot HaRosh* 13:8).

An interesting manner of probing this question is to isolate factors that may trigger *bal te'achar* even though they may not affect the monetary status. If these “*mitzva*-triggers” enable *bal te'achar*, it may indicate that *bal te'achar* is unrelated to monetary dynamics, but is rather impacted by the *mitzva* schedule and inordinate delays. For example, an interesting Tosafot (*Rosh Hashana* 4a) claims that if a poor person is present (triggering a more “pressing” *mitzva* of *tzedaka*), *bal te'achar* is violated even through a minor delay. By contrast, if poor people are not soliciting, *bal te'achar* is only violated after three *regalim* have elapsed. The solicitation of a poor person does not affect the status of monies dedicated to *tzedaka*; even prior to the solicitation

the monies were the assets belonging to poor people. By conditioning *bal te'achar* upon solicitation, Tosafot probably viewed *bal te'achar* as expediting a *mitzva*. Once the poor person petitions, the *mitzva* is incumbent and even minor delays constitute *bal te'achar*.

A similar trigger emerges from an interesting Tosafot regarding *bal te'achar* for *matnot Kehuna* and *Levi'a*, the tithes and produces designated for *Kohanim* and *Levi'im*. The *gemara* asserts the application of *bal te'achar*, but Tosafot question this based on the fact that these tithes already have a deadline. The cumulative tithes must be delivered by Erev Pesach of the 4th and 7th year of the *Shemitta* cycle! How can *bal te'achar* apply if a **different** prohibition already sets a timetable? Tosafot provide an interesting solution. If the tithes have not been assigned, *bal te'achar* does not apply; in that case, the 3rd and 7th year of the *shemitta* cycle represent the deadline. Once the tithes have been assigned, however, *bal te'achar* is triggered and the deadline occurs after three *regalim*. Again, it appears as if a process that advances the *mitzva* performance leads to the onset of *bal te'achar*. The requisite tithes already **belong** monetarily to the *Kohanim* and *Levi'im* prior to assignment. If assignment accelerates *bal te'achar*, it is probably because *bal te'achar* demands expeditious *mitzva* performance and not just relinquishing monies belonging to a different estate.

We have probed several instances of *bal te'achar* to determine whether the prohibition consists of delaying a *hekdesch*-related *mitzva* or as withholding monetary funds associated with a different account. Perhaps the most provocative application of *bal te'achar* surrounds the declaration of *nezirut* (see *Nedarim* 4a). A *nazir* evolves from a *hafla'ah* declaration and obligates a bundle of obligations and prohibitions. If *bal te'achar* is defined as delaying a verbally created *mitzva*, its application to *nezirut* is completely logical. If, however, *bal te'achar* entails withholding funds belonging to a different account, the *nezirut* application is difficult to understand. A *nazir* indeed offers a *korban* at the end of his *nezirut* term, and one position in the *gemara* limits *bal te'achar* solely to delaying that *korban* and not to delaying the advent of *nezirut* in general. However, most positions cited by the *gemara* apply *bal te'achar* to delays of various non-*korban* related aspects of *nezirut*. The various activities and behaviors of a *nazir* do not pertain to monies that are withheld, yet *bal te'achar* applies. This would, on the surface, support the notion that *bal te'achar* consists of delaying *mitzva* performance.