TALMUDIC METHODOLOGY
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Shiur #01: Further Defining the Prohibition of *Bal Te'achar* Part 1

The Torah describes the prohibition to delay offering a pledged *korban*. As discussed in a previous [shiur](), the Halakha terms this delay as the passage of three *regalim*. In that *shiur*, we assessed whether this term measures the extent of the delay, or alternatively marks maturation of the *korban* debt into an obligatory payment. This question strongly influences whether the three *regel* period can be shortened under various conditions. In this *shiur*, we will explore a more basic question: What is the essence of the *bal te'achar* prohibition?

Bal te'achar seems to be based on a formulated *neder*, which consequently imposes a mitzva of fulfillment. Classic *korbanot* are designated through halakhic declarations similar to *nedarim*, and the execution of that verbally declared *neder* in a timely fashion is mandated by the *issur* of *bal te'achar*. However, the *gemara* in *Rosh Hashana* (4a-6a) expands *bal te'achar* to include mandatory *korbanot* that do not require or undergo verbal declaration of assignment. For example, the *gemara* applies *bal te'achar* to a *korban chatat*, which is obligatory without *hafla'ah* declaration. Similarly, the *gemara* describes *bal te'achar* for delays in sacrificing an animal *bekhor*, even though the first offspring is **automatically** designated at birth. Tosafot (*Rosh Hashana* 4a) discuss whether *bal te'achar* is relevant for *bikkurim*, rejecting the possibility merely on technical grounds. In theory, *bikkurim* is suited for *bal te'achar* application even though is does not require any verbal declaration. Since *bikkurim* must be delivered to the *Mikdash*, *bal te'achar* might have applied to delays. Evidently, then, *bal te'achar* is not dependent upon a verbal declaration, but rather applies to any *korban* or *korban*-related obligation.

The *gemara* in *Rosh Hashana* (5b) raises a question that may further demand a rethinking of the *bal te'achar* obligation. Would a *yoresh* (an inheritor of someone who was obligated to offer a *korban*) violate *bal te'achar* if the *korban* were delayed? An inheritor has not taken a *neder*, nor is he obligated to execute a mitzva. Presumably, he only carries a **monetary debt** to deliver an animal that is already "partially owned" by *hekdesh*. The only way that *bal te'achar* could apply in in this case is if the prohibition is defined as withholding an item that is monetarily indebted to *hekdesh* or *hekdesh-*related domains.

Thus, the *gemara*'s inquiry about *bal te'achar* for a *yoresh* is, in fact, a probing of the nature of *bal te'achar*. If *bal te'achar* reflects delay of the execution of a personal mitzva (established through *hafla'ah* or otherwise), it should not apply to a *yoresh*. If, however, *bal te'achar* constitutes delaying items owed to *hekdesh* domains, it would apply to a *yoresh*.

Ultimately, the *gemara* cites a *pasuk* to exclude a *yoresh* from *bal te'achar*. Some claim that this exclusion indicates that *bal te'achar* only applies to the expedition of a mitzva, which is not relevant to a *yoresh*. Alternatively, the fact that the *gemara* enlisted a special *pasuk* may indicate that *bal te'achar* applies to any withholding of monetary pledged items and in theory should apply to a *yoresh* as well; a *yoresh* was excluded for secondary reasons.

This question of whether *bal te'achar* entails delay of a mitzva or withholding of pledged items surfaces in an interesting discussion in the Yerushalmi about delaying *brit mila*. While the Bavli only raises *bal te'achar* in the context of *korban* related obligations, the Yerushalmi in *Rosh Hashana perek* 1 questions its application to *mila* delays. The premise of the Yerushalmi implies that *bal te'achar* is mitzva-related and could apply to any time-based *mitzvot*. This in and of itself is a radical departure, as the Bavli delimited *bal te'achar* to *Mikdash* and *tzedaka*-related obligations. What is quite clear, however, is that the premise of the Yerushalmi assumes that *bal te'achar* is unrelated to withholding monies or assets belonging to *hekdesh* or *Kohanim*, and would thus in theory apply to delaying *mila*.

The answer of the Yerushalmi is opaque and supports multiple interpretations. The language of the Yerushalmi is that *mila* doesn't allow for

tashlumim and is therefore incompatible with *bal te'achar*. One reading asserts that the Yerushalmi is articulating the above mentioned concept: since *mila* (and other bodily *mitzvot*) do not include a "payment" (literally, *tashlumim*) element, it is not a candidate for *bal te'achar*, which is defined as withholding payable assets. Alternate options toward understanding this Yerushalmi, however, support even the broader definition of *bal te'achar* – even though *bal te'achar* can apply to any time-conditioned personal mitzva obligation, it does not apply to *mitzvot* that dissolve after the time passes. The notion of delay can only be implemented for a mitzva that has a time-condition, but which can still be performed **after** the time passes. Delaying past the optimal time but still fulfilling (*tashlumim*) constitutes a *bal te'achar* violation. *Mila* is time-conditioned, but once the eighth day passes, that mitzva vanishes; the next day represents an entirely different mitzva. Absent of this structure of time-conditioning with an extension, *mila* (and other *mitzvot*) is not suited to *bal te'achar*.

A related question arises pertaining *bal te'achar* for a *korban pesach*. This *korban* may not create financial obligations, as a *korban pesach* is completely consumed by the owner and does not "belong" to *hekdesh*. Similar to *mila* (although related to the *Mikdash* in a manner that *mila* is not), the *korban pesach* represents a mitzva about which there is no concern of withholding *Mikdash* assets, and as such it may not be suited for *bal te'achar*. Again, this issue is unclear and based on different readings of a *gemara* in *Rosh Hashana* (5a). Rashi and Tosafot maintain that *bal te'achar* applies, whereas the *Turei Even* maintains that it does not.

To be sure, even if *bal te'achar* is based on expedition of *mitzvot*, it may not apply to a *korban pesach* for the same reason that it may not apply to *Mila*. The *korban pesach* is time-conditioned, but does not provide a post-expiration opportunity for the mitzva, similar to *mila*. *Pesach Sheni* is an entirely different mitzva incumbent upon those who didn't fulfill the first opportunity. Once Pesach passes, the mitzva has become extinct, and *bal te'achar* is not relevant when the mitzva cannot be fulfilled any longer.

A stunning comment by the Ritva (*Rosh Hashana* 6b) clearly severs *bal te'achar* from monetary withholdings and affiliates it with delaying personal obligations. Based on the *gemara*'s dramatic expansion of *bal te'achar*, he applies *bal te'achar* to delayed fulfillment of **general** *nedarim* and *shavuot*. A similar approach emerges from a very brief comment of the Ran in *Nedarim*

(63a), and some positions suggest that this was also the stance of the Rambam. The Ramban (in his comments to the Rambam's *Sefer Ha-Mitzvot*, *asei* 94) roundly rejects this application.

Clearly, personal oaths do not create liened assets and the specter of withholding; if *bal te'achar* applies, it would prove that the *issur* is based on delaying personal (oath-related) obligations. Interestingly, although the Ritva's final statement does appear to apply *bal te'achar* to **all** personal oaths, the initial examples he provides appear to be more limiting, as he describes an oath to **pay** monies to someone. This type of oath **would** create a financial lien and may be suited for the "withholding" model of *bal te'achar*.