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**TALMUDIC METHODOLOGY**

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**Shiur #02: Defining the Prohibition of *Bal Te'achar***

**Part 2**

In a [previous *shiur*](http://etzion.org.il/en/definition-bal-teachar), 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 *hekdesh*-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.