

Parshas Pinchas 5772

KOSHER MITZVOS

CAN MITZVAH OBJECTS BE FASHIONED FROM NON-KOSHER MATERIALS?

Among the assorted topics dealt with in this week's multifaceted *parshah*, we find the mitzvah of blowing the *shofar* on Rosh Hashanah: "And in the seventh month (Tishrei), on the first of the month (Rosh Hashanah)... it shall be to you a day of blowing (the *shofar*)" (*Bamidbar* 29:1). Some of the details of this mitzvah are supplied by the Mishnah in Rosh Hashanah (3:2), which clarifies what constitutes a suitable *shofar*:

כל השופרות כשרין חוץ משל פרה, מפני שהוא קרן.

"All types of (animal horns used as) a *shofar* are acceptable, with the exception of a cow's horn; for the latter is referred to as '*keren*' (a regular horn; i.e., it is not referred to by the name '*shofar*')." (The Gemara proceeds to quote a Scriptural passage that refers to a cow's horn by the term "*keren*.")

While the Mishnah explicitly lists only one type of disqualified horn (cows), the commentators consider that there may, in fact, be other implied or understood exceptions (cf. *Tosfos* to Rosh Hashanah 26a, s.v. *Chutz*; *Ran* [*ibid.*], s.v. *Umihu*). One example of another possible disqualified horn is that of a non-kosher animal (e.g., a rhinoceros, perhaps?).

PIGS IN THE TEFILLIN, ELEPHANTS IN THE SUCCAH

This latter point is actually a matter of debate amongst the *poskim* (*halachic* decisors). Regarding the mitzvah of *tefillin*, the verse states (*Shemos* 13:9), "In order that the Torah of Hashem shall be *in your mouth*." The Sages derive from this phrase that *tefillin* must be *min hamutar befichah*

— (crafted) from (materials) that are permitted to enter your mouth. That is, *tefillin* can only be assembled from kosher materials; pairs made from the hides of pigs or horses are disqualified. The issue the *poskim* debate is whether this injunction extends beyond the purview of *tefillin* to other *mitzvos*, as well. The *Magen Avraham* (*Orach Chaim* 586:3) understands that *tefillin* serves as the model for all *mitzvos*, which would likewise be governed by the restriction that they be specifically fashioned from kosher materials. As such, he disqualifies the use of a *shofar* that comes from a non-kosher animal. In staking this position, he disagrees with the view of the *Olas Shabbos* (quoted by the *Magen Avraham*), who feels that the "kosher-materials-requirement" is limited to *tefillin*; other *mitzvos* possess no such restriction. Thus, he sanctions the use of a *shofar* that is taken from a non-kosher animal.

An issue with which the *Magen Avraham* would have to contend is brought up by the *Noda B'Yehudah* (II:3). The *Noda B'Yehudah* points to a *halachah* regarding the mitzvah of *succah*, which seems to lend strong support to the opposing opinion of the *Olas Shabbos*. The Gemara in *Succah* (23a) states that an elephant can serve as one of the walls of the *succah* (as long as it is tied down). Elephants, of course, are not kosher animals; and so we seem to have an explicit Gemara that sanctions the use of non-kosher materials for mitzvah objects other than *tefillin* (such as a *succah*). It would appear, then, that the same should hold true for a *shofar*, and a *shofar* from a *treife* animal should be acceptable — contrary to the view of the *Magen Avraham*!

Further support for the opinion of the *Olas Shabbos* (that mitzvah objects do *not* have to come from kosher materials) seems to come from a Mishnah in *Gittin*. The Mishnah there (2:2) states that a *get* (bill of divorce) is not restricted to parchment or paper; but "One may write it on anything: on

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the leaf of an olive tree, on a cow's horn... or on the hand of one's slave (in which case the husband presents the entire slave to the wife he seeks to divorce)." Now, human beings, of course, are not kosher, and a *get* — whose use, when necessary, is mandated by Torah Law — is also a mitzvah object. By sanctioning the writing of a *get* on the hand of a slave, the Mishnah seems to be siding with the *Olas Shabbos*, and permitting the use of non-kosher materials for mitzvah objects! (*Shaylos U'teshuvos Beis Yitzchak*)

A VISION OF THE NIGHT

The point raised by the *Noda B'Yehudah* (citing the case of the elephantine-*succah*-wall) and seconded by the *Beis Yitzchak* (citing the human-hand-*get*), seems to present a significant challenge to the *Magen Avraham*, who contended (in the case of a *shofar* from a *treife* animal) that mitzvah objects must be kosher. But a resolution to the issue comes from an unlikely source — the *Noda B'Yehudah* himself.

In a separate volume of responsa (*Shaylos U'teshuvos Zeicher Yehosaf*), R' Shlomo Landau — son of the *Noda B'Yehudah* — is quoted as relating a most curious event. The aforementioned challenges to the *Magen Avraham's* position are recorded in the published *sefer* of the *Noda B'Yehudah* and are left unresolved. But some time after his passing, the *Noda B'Yehudah* appeared to his son in a dream and revealed to him an answer to those pressing questions, which follows:

While the Gemara does clearly sanction the use of non-kosher material to serve as *succah*-walls, there is room to differentiate between the mitzvah of *succah* and the mitzvah of *shofar*. *Succah* walls, in reality, can be made of anything — animals, wood, stone, etc. In other words, it is possible to use even inedible construction material for the walls of a *succah*. In that case, if someone happened to decide to use animal skin (or a live animal, such as the case may be) for his *succah* walls, the material need not be kosher. Since he anyway could have used even inedible material (where the concept of *min hamutar b'ficha* is obviously not pertinent), he need not be concerned with this rule, even where he chooses to use edible objects. But when it comes to the *shofar*, the material in question *automatically* comes



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from an inherently edible object (being that horns come from animals, which are edible [when properly prepared]). Since, inherently, this mitzvah object *always* stems from something edible, here the Torah was particular that this “edible” material adheres to the kosher standard.

This distinction could likewise serve to satisfy the question from the Mishnah in Gittin, as well. A *get* is similar, in this respect, to a *succah*-wall. Inherently, any type of object — edible or inedible — may be employed in its production: paper, metal, horns or even human hands. As with a *succah*, in such an instance, there is no inherent requirement that the material be *min hamutar b'ficha*. It is only when the usage of edible material is *unavoidable* — such as with the mitzvah of *shofar* — that the Torah was particular for this edible material to be of the kosher variety.