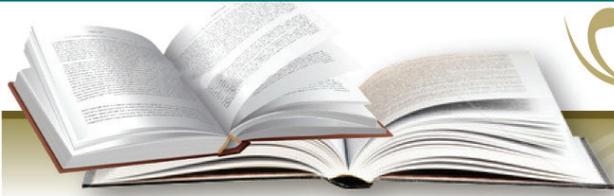


TORAH & HORAAH



Matos Masei 5777

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Dear Reader,

The opening verses of Parashas Matos teach us of the great power of human speech. The concept of a Neder, a Torah vow by which human speech is able to actually create a Torah prohibition or obligation, demonstrates the remarkable power of the spoken word.

Before it was spoken, the act referred to by the Neder was permitted, just like any other permitted action; after the Neder is made, the act becomes forbidden by Torah law.

In separating between man and beast, the act of speech represents the actualization of the human cognitive center. Before reaching the

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This week's Q & A addresses the question of keeping a meat restaurant open in the Nine Days.

Contemporary Issues of Tevillas Keilim

Parashas Matos, which tells of the battle between Israel and the Midyanites, also includes the mitzvah of *tevillas keilim*, the immersion of (new) utensils.

The instruction of the Torah relates to the utensils that were brought back from the battles with Midyan: "Eleazar the priest said to the soldiers who had gone into battle: This is the law of the Torah that Hashem gave to Moshe: Gold, silver, bronze, iron, tin, lead, and anything that can withstand fire—must be put through the fire, and then it will be clean. But it must also be purified with the water of cleansing. And whatever cannot withstand fire must be put through that water" (*Bamidbar* 31:21-23).

This passage includes instruction for *kashering* utensils and for *tevillas keilim*. Concerning the latter, the Gemara (*Avodah Zarah* 75b) explains that metal utensils used for food that are acquired from a non-Jew must be immersed in a kosher *mikva* prior to their first use. It is thus forbidden to use utensils that were not immersed after purchase from a non-Jew (see *Rema, Yoreh De'ah* 120:8) regardless if they are brand new or used.



actualized expression of speech, the spoken idea must pass through the initial phases of thought (*machshavah*) and reflection (*hirhur*). Only after these stages does the idea reach the level of *da'as* – the cognitive state that enables speech.

Thus, by means of speech, a person is able to communicate his deepest essence to his surroundings. So deep is this essence, that it has the capacity to create a Torah prohibition.

This demonstration of the force of the human word is particularly apt for this week, as we move into the Nine Days that lead up to Tisha Be'Av. The first exile of the Jewish people in Egypt was a result of *lashon hara*: The tales that Yosef told of his brothers, and the tale-bearing that Moshe witnessed in Egypt. So, too, the exile we continue to go through was the result of *lashon hara*: “Because

In the present article we will elaborate on contemporary and common questions concerning *tevillas keilim*. Is there an obligation to immerse plastic utensils? Must one immerse electrical kitchen appliances used for preparation of food? Do disposable aluminum pans need *tevillah*? And what is the status of foods purchased in glass jars and bottles—do the containers need immersion?

These questions, and others, are discussed below.

Immersion of Plastic Utensils

The Torah, in the verses noted above, refers specifically to metals. This indicates that the Torah obligation to immerse utensils applies to metals alone, and not to utensils made of other substances. (Concerning the Torah mitzvah of *tevillas keilim* see *Shut Yabia Omer 2:9*, who explains that there is actually a dispute among authorities as to whether this is a full Torah mitzvah. As the Aruch Hashulchan (*Yoreh De'ah 120:4*) and others write, the general consensus is that this is a Torah obligation.)

Chazal added that even glass utensils must be immersed, just as metal ones. The Gemara (*Avodah Zarah 75b*) explains that this rabbinic enactment was made specifically for glass utensils because of the similarity between glass and metal vessels, both of which can be mended after a break. This is by contrast with earthenware vessels, which are not similar to metal utensils in this way, and for which Chazal therefore refrained from obligating *tevillah*.

Unlike a common misconception, one must recite a *berachah* on immersing glass utensils, just as on immersing metal ones. While rabbinic in nature, immersion of glass utensils is a full obligation, and therefore warrants a regular *berachah*.

This raises a question concerning plastic utensils. On the one hand, it stands to reason that since plastic dishes can also be mended, they, too, should be included in the rabbinic obligation of *tevillas keilim*. Indeed, several authorities note that the similarity of plastic to glass (and to metal) seems to obligate us in immersion even of plastic utensils (see *Shut Tzitz Eliezer 7:37; 8:26, Shut Chelkat Yaakov 2:163*).

However, the common custom is that plastic utensils are not obligated in immersion, the reason being that since Chazal only made the decree on glass utensils, the decree does not automatically extend to other materials, even if they are essentially similar to glass and metal (see *Shut Melamed Leho'il 2:49*, who notes the

same reasoning concerning utensils made of bone; *Shut Yabia Omer, Yoreh De'ah 4:8*). Some authorities are stringent, and require *tevillah* for plastic utensils, though without a *berachah* (*Shut Minchas Yitzchak 3:76, 78*).

Many other types of dishes raise questions over the obligation of *tevillah*. For instance, fine china, porcelain, Corelle, and similar compound dishes are based on earthenware, yet are often mixed or glazed with glass to give them extra strength. One should therefore be careful to immerse them before use, though due to doubt no *berachah* is recited. For Corelle, the OU writes on its site that dishes require *tevillah* with a *berachah*, but some authorities disagree with this.

Utensils made of wood or stone do not require immersion.

Aluminum Pans and Utensils

Scientifically, aluminum is considered a metal, and therefore it seems that the full obligation of *tevillas keilim* should apply. However authorities discuss whether aluminum is considered a metal according to the Torah—perhaps the Torah includes only the six stated metals, and no more (see at length *Tiferes Yisrael*, beginning of *Taharos*).

Rav Yaakov Kamentzky (*Emes LeYaakov 120:1*) writes on this matter that on account of the doubt involved, no *berachah* should be recited upon immersing aluminum utensils. However, the common custom is to immerse aluminum utensils with a *berachah* (see *Shut Igros Moshe, Yoreh De'ah 3:22; 2:164*; Rav Moshe explains that although it is not considered a metal, it is obligated just as glass is—which raises again the question of plastic utensils).

Concerning aluminum tins and pans, Rav Moshe Feinstein (*Shut Igros Moshe 3:23*) proves that utensils which don't last for an extended period of time, such as a vessel made from a pumpkin, are not considered vessels for purposes of receiving *tumah* (ritual impurity). Based on this, he writes that temporary vessels are not considered vessels at all, and are therefore not obligated in *tevillas keilim*.

This apparently applies to disposable aluminum pans, which are generally used once and disposed of. Rav Moshe writes that vessels which could last for a long time, but are generally disposed of because they are cheap, are obligated in *tevillas keilim* even if they are used once. On account of this, some wish to be

of Kamtza and Bar Kamtza Jerusalem was destroyed.”

To the degree that our speech is flawed, our very essence is flawed; and to the degree that our essence is flawed, we lack both personal perfection *and* national perfection – for the perfection of the spirit is the perfection of the nation.

The book of Bamidbar – a book full of trials, tribulations, and downfalls, including the sin of the Spies that was the sorest of all – ends with the reading of this week's *parashah*, on the brink of entry into the Holy Land.

As we complete our own reading of the book, our hope and prayer is that we, too – in the merit of guarding our tongue – should merit a speedy redemption, and the rebuilding of Jerusalem and the Temple.

stringent for aluminum pans, which can be used more than once.

However, many authorities agree that pans that are essentially disposable are not obligated in *tevillah*, even if they are on occasion used more than once. This is the common custom concerning disposable aluminum pans (see *Shut Chelkat Yaakov, Yoreh De'ah 46; Orach Chaim 152:2; Shut Minchas Yitzchak 5:32; Tevillas Keilim* chap. 1, note 10).

Electrical Appliances

A frequently asked question relates to the status of electrical appliances used to prepare food: toasters, popcorn machines, and the like. These appliances often have a metal surface that comes into contact with food, which seems to obligate them in *tevillah* like all other utensils. However, many are reluctant to immerse an electrical appliance in water against the explicit instructions of the manufacturer, for fear of ruining the appliance. Is there, indeed, an obligation?

This question is the subject of a dispute among authorities. According to a few Poskim, these appliances are considered as being “connected to the earth” by means of the electrical cord they use—where the appliance requires a cord, and is not battery operated—and therefore do not require *tevillah*. The obligation of *tevillah* applies only to regular utensils, and not to those considered “land” (see *Shut Teshuvos Vehanhagos 1:450; Shut Bais Avi 1:114; Shut Chelkes Yaakov, Yoreh De'ah 41*).

However, most dispute this position, and rule that the connection of an electrical cord does not render an appliance connected to the earth. The appliance therefore requires *tevillah* (see *Shut Shevet HaLevi, Yoreh De'ah 2:57:3; Shut Chai Ha'Levi 4:60:5; 5:66:12; Tevillas Keilim 11:52*). While others suggest that since the appliance will get ruined by its immersion

(probably true of digital appliances), there is no obligation of *tevillah*, this position is not generally accepted by poskim (see *Shut Igros Moshe, Yoreh De'ah 1:57-58*).

Note that according to most authorities, the obligation of immersion is limited to the parts of the appliance that come into contact with food (see *Shut Igros Moshe, Yoreh De'ah 1:57-58; Shut Chelkat Yaakov 3:43*). Where this, too, is problematic, there are two main options for dealing with the problem of electrical appliances:

A possible option for rendering such appliances exempt from the obligation of *tevillah* is to have the appliance taken apart and re-assembled by a Jew. As a result one would not be obligated to *tovel* the utensil, since it is considered that the Jew created a new utensil (see *Chochmas Adam 73:13; Shut Be'er Moshe 4:100; Tevillas Keilim 11:50*). However, it is not sufficient to merely loosen a screw and tighten it again. A significant part of the appliance needs to be taken apart.

Experience has shown that despite the warning on the label, immersing an appliance in water does not cause it damage, which means that the appliance can generally be immersed, and left to dry for a lengthy period of time until it is completely dry. A blow drier can also be used to speed up the drying process (see *Be'er Moshe 4:100; Rivevos Ephraim 2:172:10; 3:502*).

Note, however, that both options might have repercussions concerning the warranty.

A third option, where immersion is not possible or highly risky, is to give the appliance to a non-Jew as a gift, on condition that he lend it back to you. Since the appliance now formally belongs to a non-Jew, the obligation of *tevillas keilim* does not apply.

Where possible, the ideal is to purchase an electrical appliance assembled by a Jew or

a Jewish company, which exempts from the obligation of *tevillah*.

Jars and Bottles

A famous question of *tevillas keilim* relates to glass bottles (just as wine, or soft drinks), or glass jars that are purchased with their contents (such as pickles). In these cases, it seems that we are drinking or using for storage a utensil that is clearly obligated in *tevillah*. Unlike the aluminum pan, the jar or glass bottle are certainly fit for reuse, and the fact that we generally throw it away should make no difference. The question therefore is if it is permitted to use these glass jars and bottles, and can they be reused for other purposes?

A famous *teshuvah* of Rav Moshe Feinstein (*Yoreh De'ah 2:40, 137*) issues a lenient ruling on this question (he addresses the latter question of reusing the jar). His reasoning is as follows.

Rav Moshe suggests that a utensil purchased from a non-Jew requires *tevillah* only if the non-Jew regarded it as a *keli*, a utensil. If, in the eyes of the gentile, the sale item was not a utensil but rather a product (such as pickles), but the product needed a container to hold it, then it is not considered a though the Jew bought a utensil from the non-Jew but just the product. The container is considered a utensil for the first time when the Jew decides to use the bottle or jar as a general utensil to hold other food items.

Thus, when a person buys a jar of pickles, he generally considers himself to be buying the pickles and not the jar. The jar comes with the pickles because the seller has no other convenient way of selling them, but not really as part of the sale. He would not offer a discount for selling the pickles without the jar. Thus, Rav Moshe Feinstein rules that the glass jar (or bottle) does

not have to be immersed.

Rav Moshe adds that even if the seller would lower his price for keeping the jar, there is no obligation of *tevillah*. He bases this on *Mishnayot* in *Maaser Sheini* that consider jars holding liquids and food items to be *tafel* (secondary) to the contents. Thus, it is permitted to use *maaser sheini* money (which can only be used to purchase food) to purchase wine together with its bottle, even if the bottled product costs more than the wine without the bottle.

It therefore emerges that the Jew is not considered to be purchasing a jar at all, but only pickles. Halachically, the jar is considered part of the food itself. It only becomes a jar after it is empty of its contents and the Jew decides to reuse it. Since then it is already the Jew's property, there is no obligation of *tevillah*.

Rav Moshe adds that it was the common custom to be lenient on this matter in his European hometown. Maharil Diskin (cited in *She'arim Hametzuranim Behalacha 38:8*) is also lenient on this question, as is the *Or Letzion (Orach Chaim 1:24)*. Yet, because of the novelty of the approach, Rav Moshe writes that one should be stringent for metal containers, and lenient only for glass ones.

Rav Yechiel Yaakov Weinberg (*Shut Seridei Esh, Yoreh De'ah 2:29*) suggests a different solution to the problem. He suggests that when a person buys the drink, he should have in mind not to acquire the bottle. Thus, there is no issue of *tevillas keilim*, since the person does not own the utensil, and it is permitted to drink from it. Rav Menashe Klein (*Shut Mishne Halachot 4:107*) writes that it is permitted because one doesn't have in mind to acquire the bottle, for nobody wants to buy something that will lead to a prohibition.

Halachic Responsa

to Questions that have been asked on our website dinonline.org



The Question:

Is there any halachic problem for a kosher meat restaurant to be opened throughout the nine days? And would it affect the hashgacha? Thank you



Answer:

The general custom is that kashrus authorities do not enforce the closure of meat restaurants in the Nine Days. It is better to close the establishment, but if somebody keeps his restaurant open, we do not object.



Sources:

The opening of restaurants raises a delicate question of lifnei iver:

Although the prohibition of meat in the nine days is “only” by the force of a custom, Rishonim already address the prohibition with severity, and the concept of lifnei iver will apply to it.

On the other hand, people can of course obtain meat elsewhere, so that the case might be a case of “chad ivra nahara” — the person doing the prohibited action does not require the restaurant to do it — and based on this idea, some are lenient with regard to the question of meat restaurants in the Nine Days (see *Yecheveh Daas* 3:38).

Yet, some write that in Israel, because other restaurants are also of Jewish ownership, the availability of meat does not change the status of lifnei iver (this depends on a dispute between Rashi and Tosafos, *Kiddushin* 56a).

It is further noteworthy that according to Tosafos, the idea of mesaye’a, aiding a sinful act, does not apply to rabbinic prohibitions.

In addition, there is a benefit in keeping the restaurants open, in that at least those eating there will eat kosher meat and kosher food. If restaurants were to be closed, there is a concern that visitors will go to non-kosher restaurants instead. Yet, this benefit, in itself, is not sufficient for us to perform an aveirah.

For these reasons, the *Teshuvos Ve-Hanhagos* (2:257) writes that we cannot permit this, but it is permitted for us to remain silent, and not to make objections to those who open the restaurants. He adds that a restaurant that remains open must put up a note, stating that the meaty foods are intended only for those who are permitted to eat them in the Nine Days (for instance, Sephardim before the week of Tisha Be’Av commences; this year, when Tisha Be’Av is on Sunday, “shavua she-chal bo” doesn’t happen at all).

Shut Pe’as Sadcha (2:119) cites from the *Chazon Ish* that one should be stringent, but concludes that we should remain silent if asked, because in any case our advice (to close shop) won’t be heard.