Voices, Hearts and Hands:
Designation of Objects' Statuses by Speech, Intention, and Action
in the Babylonian Talmud

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Introduction

The genesis of this project was a brief stint studying *daf yomi*, the traditional page-a-day cycle of the Babylonian Talmud with a classmate. While studying tractate Chagigah, the sugya, included here in chapter 2, which dealt with the priest in the mikveh piqued my interest. How could it be, I wondered to myself, that the priest doesn't have to immerse again, but just changes his mind in order to change his level of purity? This seemed to give a lot of power to the mind. Was this the case elsewhere in the Talmud? How does the Talmud understand the mind and how the mind interacts with objects, people and their statuses? Does the object change or is it the way humans must interact with the object that changes when an object is given a new status?

Many scholars of rabbinic texts have pondered this. Jeffrey L. Rubenstein, citing the work of Moshe Silberg in 1962 notes: "Silberg conceded that neither the 'molecular structure' nor 'chemical nature' changes." But, "a Halakhic act changed reality in some way...An animal dedicated to the Temple entered the state of הקדש not because it is now called 'sanctified' but because its reality now fundamentally differs from a profane animal with the status of חולין."[1] The reality is changed, but the object is not – and all of this because of a person's thoughts. "Intention, therefore, has the power to alter the basic properties of an object by changing the category into which that object falls."[2]

Further examination revealed it was not just thought which caused a change in status, but action and speech that had the same effects. What soon became clear was that both action and speech required some thought or intention. The Talmudic debates discussed in this work attempt to discern how much of the change in reality for the object is based on the speech, the action or the intention. What counts for determining status? And, what takes precedence? Each of the

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[1] Rubenstein, Jeffrey L. Nominalism and Realism in Qumranic and Rabbinic Law: A Reassessment. *Dead Sea Discoveries*. 6:2, July 1999 p159-160
[2] Eilberg-Schwartz, H. The Human Will in Judaism: The Mishnah's Philosophy of Intention. P 4

chapters that follows is based on one sugya, or self-contained unit of Talmudic discourse, which deals with one method—voice, intention, or action—of designation of status. Chapter one focuses on the *yad,* the partial declaration as described in tractate Nedarim, to explore what constitutes a true speech act. Chapter two will focus on designation through intention by looking at the sugya from tractate Chagigah that began this study. Chapter three will look at a deliberate, composed sugya from Sanhedrin that focuses on the legal dispute between designation through use and designation through intention. Where necessary, parallel sugyot in other tractates are also discussed and analyzed.

These sugyot are self-contained units of Talmudic discourse. This is not new in the field of Talmudic research; but what this thesis adds is the sense that the chronologically later layers of writing are more interested in legal categories of designation. There is a focus in this thesis on the relationship between the different layers of writing and how that leads to a sense of what a later layer may have imposed on an earlier layer. There is also a focus on the movement of material throughout the Talmud and what that may mean for the understanding of legal concepts at different periods in the compilation of the Talmud.

Rabbinic Judaism is replete with status and categorization. Some of the categories described in this work may be familiar: kosher and unkosher, for example, describe animals that fall into certain biblical categories. Only the hides of kosher animals are fit for making the casing for *tefillin*, phylacteries, as described in chapter three. Other categories may be less familiar. Levels of purity, impurity and sanctification which are key to understanding chapter two will be defined and explained at the beginning of each chapter. There are many terms for designation in the Talmud. Some of the terms used in these chapters include: *hazmanah,*

chazakah, and *kavannah.* There does not appear to be much difference between the terms in that they all imply the mental aspect of designating a specific status on an object.

Before continuing, it is necessary to say a few words about the composition of the Talmud. The Babylonian Talmud is not a univocal document. There are well-documented layers of texts which come together over centuries. Each of these layers of discourse can be identified and understood both in the context in which it was written as well as the context of the later generations who read those earlier writings. This is important to note as often a later layer will attempt to impose a reading on an earlier layer. This is the case throughout these three chapters. In the cases that will be elaborated, later writers impose rules, sensibilities and notions of law onto earlier writings, many of which are not necessarily present in those earlier layers.

This is most often accomplished by the late, anonymous, postamoraic layer of the Talmud known as the Stam. The Stam often serves to compile earlier rulings and scenarios in a way that leads them to a more conceptual and abstract legal understanding. The Stam accomplishes this sometimes by forcing juxtaposition – juxtaposing different layers of legal tradition such as Tannaitic (sages from the time of the Mishnah) and Amoraic (post-Mishnah sages in Babylonia and Israel) next to each other to push the notion that the two were referring to the same notion. Sometimes, the Stam will use a few words to connect disparate notions and force them together. These methods will be highlighted in the chapters that follow. It appears to be the Stam, for example, who is most interested in the notion of classification of status as a category of law. Much of the earlier material appears to be focused on specific cases that may or may not have anything to do with designating a status. The Stam brings these together and uses them as if they are discussing status and designation.

These three sugyot do not represent anything more than a sampling of the material in the Talmud that relates to this matter. Yet, they are representative of the different notions of how humanity interacts with the world around it according to the sages of the Talmud. Our ability to speak, to have intention and to act allows us to change the world around us. The rabbis of the Talmud knew that and felt that in a real way, assigning theological, communal and interpersonal ramifications to their thoughts, actions and words.

Chapter One: Designation by Speech

The sugya described in this chapter deals with the notion of a *yad*. A *yad* is a partial speech act. The term derives from the notion of a handle, which is connected to the utensil. The difference between a *yad* and an explicit vow is that the yad must be understood in its context.[3] In the sugya below, the issue revolves around the *yad* and whether or not there is a clear enough intention to understand the intent of the speech act. Speech acts also require a speaker and an object being addressed. This means that a speech act requires a directionality to be valid. In particular, the marriage formula appears to be valid only in one direction. There must also be transitivity, meaning that the speech act addresses a direct and specific object. Any lack of this results in ambiguity. Ambiguity, as shall be explained below, is the line between a valid speech act and an invalid speech act.

When an object or person is designated using a speech act, the Talmud often requires certain formulations. For example, there is the familiar formula in a marriage ceremony that designates the participants as married.[4] There is a formula for declaring the corners of one's field "peah." There are formulas for declaring tithes. The question of what constitutes a valid verbal formula is addressed in B. Nedarim 6b-7a, where the notion of a *yad*, or a partial declaration which has the effect of a full declaration, is elaborated and discussed. This sugya will ask what constitutes a *yad* by asking whether or not a *yad* is valid in certain cases where speech acts are required for designation. The Gemara will ask how truncated the formula might be for it to still be considered valid. This notion of a partial declaration appears in a sugya in B. Kiddushin 5b, which might be the source for the Nedarim sugya. The Kiddushin sugya makes reference to the *yad* only as it relates to the betrothal formula, but it goes into greater depth than

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[3] Cf. Steinsaltz Reference Guide

[4] Behold you are consecrated to me…etc.

does the Nedarim sugya. The Nedarim sugya, as will be discussed below, has a definite

trajectory that takes it through a series of examples which move from biblical questions to

rabbinic questions. These examples also move in an order that suggests that the earlier examples

are more significant in terms of their consequences than the later examples. This sugya is part of

a broader narrative about which *yad* might be considered valid and which *yad* might not. In all

these cases, the concrete cases of the Tannaitic and Amoraic layers are raised to a higher level of

abstraction by a later Stammaitic layer. This abstraction from specific case to legal principle

appears to be an important part of the purpose of the Stammaitic layer in this sugya.

Bavli Kiddushin 5b

Though certain formulas are set, the Talmud does allow, as an example in the case of

marriage, certain different formulations. Kiddushin 5b makes clear that certain variations of the

marriage formula spoken by a husband to his wife are acceptable, but certain formulations which

deviate significantly from the approved formula are not acceptable, and therefore do not render

the couple married.

אמר שמואל: בקידושין, נתן לה כסף ושוה כסף, ואמר לה הרי את מקודשת, הרי את מאורסת הרי את)לי(
לאינתו - הרי זו מקודשת, הריני אישך, הריני בעליך, הריני ארוסיך - אין כאן בית מיחוש

> Shmuel says: in the case of marriage, if he gave her money or its equivalent and says
> 'Behold you are consecrated,' 'Behold you are betrothed,' [or] 'Behold you are a wife (to
> me),' then there is betrothal. [If he says] 'Behold I am your husband,' [or] 'Behold I am
> your master,' [or] 'Behold I am your engaged,' there is no grounds for fear [the marriage
> is not valid].[5]

In both the valid and invalid formulations, there is a prerequisite exchange of money or an item

of value. The exchange of money is followed by the speech act, in a particular formula. In both

the case of the approved and not-approved formula, exchange of money or its equivalent is

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[5] B Kiddushin 5b

required. This is only important insofar as determining what renders the marriage valid. Is it the exchange or is the speech act? Since in both cases money is exchanged, it appears that the defining moment of the wedding ceremony is the speech act said by the husband to his bride. It is important to note that there is more than one formula for marriage that is acceptable. Each of the three formulas Shmuel allows includes directionality. In all three, the man designates the woman for him, whereas the formulas that are deemed unacceptable have the man designating himself for his bride.

One issue discussed as the sugya continues is what constitutes a valid formula[6] as opposed to what makes the invalid formulas so. Are the three valid formulas presented here in fact valid, the Gemara asks, since they are not complete? None of the three formulas has the "לי to me," which is a requirement of the ceremony: "Behold, you are betrothed to me." Rather, Shmuel's three valid partial formulations in the *Gemara* lack this prepositional phrase, and may therefore be construed as lacking appropriate directionality for the betrothal to take effect. It is this one missing word in the Hebrew speech act that may be seen to create a sense of ambiguity. Is this *yad* valid? The woman may, in fact, be betrothed, but to whom? The lack of specificity with regards to the two parties in the wedding renders the formula and therefore the speech act potentially invalid. This will become important in Nedarim 6b.

Rav Papa poses this question to Abaye in the abstract, not with regard to the specific formulas:

אמר ליה רב פפא לאביי למימרא דסבר שמואל ידים שאין מוכיחות הויין ידים? והתנן האומר אהא הרי זה נזיר והוינן בה ודילמא אהא בתענית קאמר. ואמר שמואל והוא שהיה נזיר עובר לפניו טעמא דנזיר עובר לפניו הא לאו הכי לא הכא במאי עסקינן דאמר לי אי הכי מאי קמ"ל.

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[6] In fact, on page 6a, Kiddushin will broaden the formulas that are acceptable for marriage. It is interesting to note that the formulas on 6a, which are allowed all appear to be complete formulas. None would be classified as a *yad* because they each include reference to both actors in the betrothal.

Rav Papa said to Abaye: shall we say that according to Shmuel, a *yad* which is inexplicit is in fact a *yad*? But we learned: if one declares "*aha* / I will be" he becomes a *nazir*. We pondered this. Perhaps he meant to say "I will be in a fast". Shmuel answered [the inquiry]: this is only when a *nazir* is passing before them, thus it is only when a *nazir* was passing before him, but not otherwise. The circumstances here are that he said "לי / unto me". *Ka mashmah lan*[7].

The question of whether or not Shmuel believes that the *yad* needs to be explicit or not is described in general terms. A concrete example is given regarding a *nazir*, which requires designation by a speech act. It is potentially Rav Papa who asks the question of the *nazir*, bringing a case wherein a man declares simply, "אהא / I will be!"[8] and he becomes a *nazir*. The questioning continues, showing how unclear the simple statement might be. But Shmuel's retort—probably inserted by the Stam from a comment directly referring to the mishnah—is not very persuasive. Shmuel holds that for this declaration to change the speaker's status to that of "*nazir*," the potential n*azir* must see an actual *nazir* walking before him. The line of questioning implies that for a statement to be a true speech act of declaration, even as an abbreviation, there must be explicit intent and direction. For this case of the *nazir*, there must be a visual which can be referred to for the "I will be!" to take effect. For a marriage formula, there must be directionality. Since Shmuel states that the *nazir* required specificity, he must therefore also mean that in his formulations, the direction and specificity was present as well. Therefore, the "לי" must be present. Interestingly, Nedarim 6b-7a will make a similar point with regards to what constitutes specific enough speech to be considered even an abbreviated speech act.

Nedarim 6b-7a

Tractate Nedarim takes on the question of the *yad*, which Kiddushin posed. As mentioned above, Kiddushin appears to be the earlier reference to this question of what

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[7] Kiddushin 5b-6a
[8] Rashi on אהא says that it means אהיה or I will be.

constitutes a valid partial declaration. This is because the Kiddushin sugya only deals with the question of the *yad* as it relates to marriage, whereas Nedarim expands the scope of the question of the *yad*. Though both deal with the binding power of speech acts, Nedarim is broadly about different speech acts and their validity, while Kiddushin is exclusively about marriage. What Nedarim appears to do is take the notion of the *yad* as discussed in Kiddushin and attempt to apply it to other cases of designation. This implies that the *yad* in marriage, which is the first case, is the genesis for this discussion. In order to properly understand the sugya relating to the different applications of a *yad*, one must first look at the sugya in terms of the material that surrounds it. While this is not necessarily important in terms of each individual example and the validity of its *yad* example, it is important in terms of understanding the intellectual trajectory that can be surmised.

Nedarim begins with the question of whether or not one may impose a vow on his neighbor. The opening Gemara asks what language allows a vow to be imposed, what language is ambiguous and what language does not allow the vow to be imposed. By 4b, Shmuel is making the case that the order of the language and the words used are important to understand exactly who is designated as forbidden. There are two clauses at play here, based on the mishnah. The first: " האומר לחברו מודרני ממך, מופרשני ממך, מרוחקני ממך One who says to his neighbor: I am debarred from you by a vow, I am separated from you, or I am removed from you."[9] The second: " שאני אוכל לך, שאני טועם לך For I will not eat of yours or taste of yours."[10] Shmuel initially states that both clauses are required. The vow is not officially taken by just stating the first clause. It is only through the second clause that the speech act becomes complete. Shmuel requires that there be no ambiguity. The Gemara will continue to parse this

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[9] B. Nedarim 2a
[10] Ibid.

out, but at this point, it is important to see that Shmuel's sensibility is that there be no ambiguity. If one were to merely say, "I am separated from you" it is unclear what that means. By adding, "for I will not taste of yours" there is a sense of what the vow means and what actions must be taken or barred. As we saw in the Kiddushin sugya, ambiguity becomes an issue. Recalling the designation of the nazirite, where the partial declaration required a visual affirmation of intent, here again, the question of ambiguous declarations becomes the focus. By 5b, Shmuel's opinion is made clear regarding inexplicit abbreviations: he believes they are invalid, and as little as one missing word makes them as such. In this case, it is the exclusion of the word לך that might render that second phrase invalid. As noted in Kiddushin, directionality and transitivity are required. An ambiguous object of a vow appears to render the vow invalid.

This is the transition point for the question of whether or not an explicit abbreviation is valid. Nedarim has set up Shmuel's notion of directionality and the necessity of the object of the vow to render the vow, even in abbreviated form, as valid. This discussion is taken up by Rava and Abaye and ends with the notion that only in the case of a divorce may an inexplicit abbreviation be deemed valid. This is because the two parties are not ambiguous and the directionality of the speech act is obvious. Thus, the Gemara has established that in all cases other than divorce, there can be a valid abbreviation, but it must be explicit. This, coupled with the sense that explicit means a direct object for the speech act and a sense of directionality from the earlier pages of the tractate, brings the sugya to a section that tests the boundaries of these *yaddot*. The Gemara has set up that a *yad* can be valid, and an inexplicit *yad* can also be valid but only in divorce. But, like many Talmudic sugyot, the rabbis of different generations will provide some clarification on specific points of designation by speech.

As mentioned above, the trajectory of the sugya on 6b to 7a moves from scenarios with a great deal of impact on a person to scenarios that may have little effect on people. It also moves from biblical to rabbinic law. In a series of questions, the Gemara inquires about partial designation, moving from betrothal to *peah* to tzedakah, to hefker, to a restroom. Each of these short questions is answered and expounded upon in a similar fashion. The answers show, as has been noted above, that the requirements of a *yad* remain a lack of ambiguity characterized by directionality and a direct object of the speech act. The questions and answers follow the same pattern. A question about a *yad* is asked. The question is challenged as to what the partial declaration may have been and how ambiguous was its language. The ambiguity is fleshed out. And finally, there is no final answer rendered. The Talmud does not hold back its questions because the answers may be seemingly obvious. That is the case here as well. Though it has been determined that an explicit *yad* is valid, the Gemara will not hesitate to ask the same question for multiple situations.

Rav Papa inquires as to whether or not a *yad* is valid in the case of betrothal: " יש יד לקידושין או לא."[11] Each of the inquiries will begin with this formulation. Is the *yad* valid in the case of *x* or not? Though the first two questions are raised by Rav Papa, it is unclear who is asking the third and fourth cases. The fifth case is brought by Ravina. The progression of these questions in this sugya shows an evolution of the question of the *yad* over time, Rav Papa being a 5th generation Babylonian rabbi and Ravina being a 6th generation Babylonian rabbi. This, coupled with the Babylonian 4th generation in Rava and Abaye from the previous sugya and the Babylonian origin of this question in Shmuel (1st generation), shows how this question may have evolved over time; or at least the Bavli wishes to portray the evolution of this issue over time. Whereas the question of the *yad* dealt initially with betrothal in the first generation, the question

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[11] B. Nedarim 6b

about what constitutes an explicit *yad* seems to be asked later. This is followed by an attempt to put the somewhat legally abstracted sense of the partial declaration into use in other cases. Although the editor(s) may be creating the appearance of historical development, there still may be defining characteristics that distinguish Amoraic contributions to this issue in general from Stam contributions.

Rav Papa's question about betrothal must be explained. Kiddushin, as we have seen above, has already determined the valid and invalid formulae for betrothal. Recalling that the question of a *yad* in betrothal has already been answered, perhaps a later layer of Gemara attempted to discern why Rav Papa would need to answer this question. Where must the ambiguity come from? What must Rav Papa be thinking? The answer is that a man is marrying one woman and turns to another and gives a partial declaration of betrothal. It has been noted above that after the exchange of money or its equivalent, the man must make the declaration in a fixed formula which implies a specific woman and which posits that the woman is betrothed to him. He cannot betroth himself to her. Here, the question is clarified: " אילימא דאמר לה לאשה הרי את מקודשת לי, ואמר לחבירתה ואת נמי / If we say that he says to the woman 'behold you are betrothed to me,' and he says to her fellow, 'and you also.'"[12] Suddenly we are in a new realm. Recognizing that marrying multiple wives was acceptable at the time, we come to see that the question is expanded from what we might assume. Our new scenario is thus that a man performs one speech act by reciting the full betrothal formula to one woman and then turns to another and with a second speech act gives a partial declaration. The *yad* in this case is his saying "and you also."

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[12] Ibid.

"פשיטא, היינו קידושין עצמן This is simple," the Gemara replies. "This is betrothal."[13] This

is simple because designation of betrothal can be accomplished by a *yad*, the explicit

abbreviation. "And you also" is thus taken in tandem with the "behold you are betrothed to me."

In the context of the first designation, the simple two words in Hebrew result in the same effect

as the four specific words in the first vow. The directionality is not changed by the "and you

also." The man does not say to the second woman that he is betrothed to her. It is also clear that

he is referring to a specific direct object of his verb, in the second woman. So this case is clear.

This *yad* is explicit and therefore valid. So then, what must Rav Papa be talking about? What

sense of designation might be troubling him? When this question is resolved, it becomes clear

that ambiguity is the main culprit that causes a *yad* to lose its legal effectiveness.

The Gemara continues: "אלא כגון דאמר לה לאשה הרי את מקודשת לי, ואמר לה לחבירתה ואת

rather, suppose that he said to the woman 'behold you are betrothed to me,' and he says to her

fellow, 'and you.'"[14] The case that is being discussed, therefore, is a case where ambiguity in the

declaration renders the declaration potentially inexplicit and therefore invalid. By not saying "נמי

/ also" and only saying "ואת / and you" the man may fulfilled a part of the requirements of the

valid inexplicit abbreviation, directionality and a direct object for the vow, but it is still too

ambiguous as to what he may mean. In Kiddushin, this was the issue with the nazarite vow. The

ambiguity of the vow required a situational buttress to render the vow valid. Here, the question

becomes whether the previous declaration serves to buttress the ambiguous declaration. The

Gemara asks if we are supposed to make an assumption that the man meant to betroth the second

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[13] Ibid
[14] Ibid

woman or perhaps he meant to say to her "ואת חזאי / and you witness it."[15] The intention of the declaration, even with the previous speech act rendered valid, is not explicit enough.

This differs from the nazarite example in Kiddushin in that there is literally nothing to point to. There is very little difference between the potential for אהא to render a change in status and ואת to do the same. In Kiddushin, for the ambiguous one word declaration, there was a nazarite walking by which served as the impetus for the declaration. Here in Nedarim, the man cannot point to the words he just uttered. The Gemara seems to be making a distinction between using tangible tangential evidence to remove ambiguity and using intangible evidence to remove the same ambiguity. A visual cue to an inexplicit *yad* may, therefore, be of more value than an aural cue to an inexplicit *yad*. In fact, the Gemara makes explicit reference here to the discussion on Kiddushin 5b, which ends with the debate over the explicitness of the nazarite vow. The Gemara, in bringing in the source of this debate, in fact can be seen to heighten the differences between what is being asked in Nedarim and what is being asked in Kiddushin. Note that no answer is given to the question of whether or not the "ואת" constitutes a valid betrothal. Perhaps fittingly the ambiguity of the answer is meant to render the point that the answer is no.

In the next example, Rav Papa asks about a biblical requirement, that of *peah*, or the corners of one's field which are meant to be left for the poor. " בעי רב פפא: יש יד לפאה, או אין יד לפאה Rav Papa inquires: 'does a *yad* work for *peah* or does a *yad* not work for *peah*?"[16] *Peah* is a requirement according to Leviticus 19:9-10. The Israelites are not to harvest the corners of their fields nor are they to pick up the gleanings. These are to be left for the poor. Later explications on this law have rendered that it may be any part of the field, not necessarily the corners, and that in order to render a portion of the field for *peah*, a declaration that that section

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[15] Ibid
[16] Ibid

is *peah* must be made.[17] Rav Papa would like to know whether or not the rules of the *yad* apply

to the declaration of *peah*. It may seem that Rav Papa need not ask this question, because the

notion that as long as the *yad* is explicit it is valid has not changed, yet he asks[18] anyway.

Perhaps his aim is to discern if a *yad* applies in a non-human situation.

The Gemara, as above, fleshes out what the case is. It must do this, as has been noted,

because an explicit *yad* is valid. "אילימא דאמר הדין אוגיא ליהוי פאה והדין נמי, ההיא פיאה מעלייתא היא If

he were to say, this plot shall be peah and this one also, that is a complete declaration of peah!"

Here, the Gemara renders the potential partial declaration as valid. Noting the similarity in

language to the first example, the declaration in question: "and this one, also" is rendered valid,

in that it is unambiguous. So the Gemara proposes that perhaps he left off the "also." This then,

becomes an inexplicit abbreviation.

The Gemara now moves into a slightly different realm, dealing with percentages of

fields. The Gemara is going to ask for the general rule regarding whether or not one may declare

more than the requisite portion of one's field *peah*. This is important because if the first plot

were not enough to fulfill the obligation, the "and this one" declaration may be less ambiguous.

Also important is the question as to whether or not one may declare their entire field *peah*. If

this is not a possibility, then the partial declaration may be seen to be referring to something else

altogether. This last question seems to be interjected. "מכלל דכי אמר שדה כולה תיהוי פאה הויא ?

פאה"[19] It is then answered in the affirmative, that yes, one may declare the entirety of one's field

peah.

At this point, the basic question seems to have been lost. Rav Papa's inquiry as to

whether or not a *yad* is valid for *peah* has been overshadowed for a moment by information

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[17] Cf. Mishnah Peah
[18] Or the question is asked in his name.
[19] B. Nedarim 6b

about the fields. The Gemara goes on to cite a teaching which asks the question which has

already been asked and answered. "והתניא: מנין שאם רוצה לעשות כל שדהו פאה עושה It was taught,

from where do we learn that if one desires to declare his entire field peah he may do so?"[20] This

question is from a *baraita*, and it allows the Gemara to reach a proof-text, which is the verse

from Leviticus, which includes the phrase: "פְּאַת שָׂדְךָ / corner of your field."[21] This is,

apparently, enough proof at this time that one may declare the entire field *peah*.

The Gemara now returns to the *yad*, having seemingly answered its question.

Interestingly, the verse from Leviticus will come into play for a bit of hermeneutics in trying to

explain how a *yad* may be considered valid in this case. "מי אמרינן כיון דאיתקש לקרבנות, מה קרבנות

יש להם יד אף פאה יש לה יד, או דלמא כי איתקש - לבל תאחר הוא דאיתקש Do we say that since [*peah*] is

connected via a *hekesh* to *korbanot*, and that since *korbanot* allow a *yad* so too does *peah*, or do

we say that the connection is via the commandment not to delay?"[22] The hermeneutic device of

the *hekesh* or analogy uses the notion that juxtaposed ideas must be related and therefore legal

inference can be made by comparing the two.[23] Here, it appears that a *yad* is assumed to be the

case and the Gemara seeks to find the proof for it. Does the proof therefore come from an

analogy to sacrifices or the commandment not to delay?

The Gemara will answer that the analogy comes from a phrase in Deuteronomy 23:22.

Deuteronomy notes that one is not to delay when making a vow and paying for it: "כִּי-תִדֹּר נֶדֶר

לַיהוָה אֱלֹהֶיךָ, לֹא תְאַחֵר לְשַׁלְּמוֹ: כִּי-דָרֹשׁ יִדְרְשֶׁנּוּ יְהוָה אֱלֹהֶיךָ, מֵעִמָּךְ When one vows to Adonai your God,

do not delay in paying it, For Adonai your God will surely demand it from you." The Gemara

takes the word מֵעִמָּךְ from you and tells us that this applies it to gleaning, forgotten sheaves and

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[20] Ibid.
[21] Leviticus 19:9
[22] B. Nedarim 6b
[23] Steinzaltz Talmudic Reference Guide, p. 151

peah. The Gemara then moves on to the next case without answering what this is supposed to mean. How does this prove anything? What does it mean that "from you" refers to these three categories? Well, in order to understand that, one must refer to the medieval commentator and codifier R. Asher b. Yehiel (Rosh, Germany and Spain, ca. 1250-1327), who teaches that this verse is connected to Exodus 22:24: "אִם-כֶּסֶף תַּלְוֶה אֶת-עַמִּי, אֶת-הֶעָנִי עִמָּךְ If you shall lend money to my people, even to the poor who is with you…"[24] The עמך is the connection that the Rosh makes for us. This does not really answer any questions. It appears as if this question is answered by connecting the requirement for *peah* for the poor, to other requirements for the poor, with a commandment not to delay in paying a vow. Perhaps, if one is not to delay in *peah*, one may use an abbreviated vow. This is, again, not made clear. The speech act of declaring *peah*, however, does require explicitness. An ambiguous declaration of *peah* does not render the field as such.

Moving on to the next case, charity, it is important to note that the question is not attributed to any particular sage. It is possible that the question is that of Rav Papa, following in the previous two questions about the applicability of a *yad*.[25] More likely, these questions are merely related questions which have been added here. Either way, the same question is asked about charity, and whether or not a *yad* is applicable. In this case as well, the notions of abbreviated speech show the limits of what constitutes a speech act with the power to designate status.

The Gemara begins just as before. " יֵשׁ יַד לִצְדָקָה, אוֹ אֵין יַד לִצְדָקָה? הֵיכִי דָּמֵי? אִילֵּימָא דְּאָמַר הַדֵּין זוּזָא לִצְדָקָה וְהַדֵּין נַמִּי, הַהוּא צְדָקָה עַצְמָהּ הִיא! אֶלָּא כְּגוֹן דְּאָמַר הַדֵּין וְלֹא אָמַר נַמִּי   Is a partial declaration for charity valid or is it not? What is the case? If we say that he said 'these coins are for charity and these also,' then the [second] one is fully charity! Rather, perhaps he said 'this one' and did not

[24] Rosh to B. Nedarim 7a
[25] Art Scroll's translation and commentary attributes the anonymous questions to Rav Papa, potentially in order to reconcile ambiguity, though theirs is not a scholarly approach.

say 'also'."[26] It is after this already familiar formula that the Gemara presents some new

information, which may shed some light on a general sense of what constitutes an effective

speech act of designation. "מאי הדין נמי צדקה קאמר, או דלמא [מאין] והדין)נמי(לנפקותא בעלמא קאמר,

ודבורא הוא דלא אסקיה What [did he mean] when he spoke? This one is charity or this one is for my

own personal use, his words being cut off."[27] It is the last line of the intermediate interjection

that may shed some light on what the Gemara has to say about speech acts. It seems as if the

Gemara is making a distinction between speech that was complete and speech that was

abbreviated and therefore rendered ambiguous. Abbreviated statements cannot designate. This

is a new sense of a partial speech act from what came before in the sugya. Prior to this, the

Gemara gave examples that were *yaddot*, abbreviations but seemingly knowingly. The question

had not been whether or not the abbreviation was a complete thought for the speaker, but

whether or not the words could be considered a complete enough thought to render them valid to

designate.

The difference between the intention of the speaker and the perceived intention is subtle.

But the issue of whether or not the speaker intended to give an abbreviated vow or did so

unknowingly points at the issue of intention. Above, it seems as if the intention of the inexplicit

yad was to be the same as the explicit. Here, the question is raised as to whether or not one can

easily make that assumption. Also, in the case of betrothal and *peah* it could be said that the

ambiguity came from a confusion of object of the vow and direction of the vow. Here, it is a

question of the intention of the person speaking the vow.

The Gemara now continues with its own ambiguous argument. A question is asked about

the proof for the notion that a *yad* is applicable for tzedakah. As above, the question of the

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[26] B. Nedarim 7a
[27] Ibid.

analogy is posed and the connection to the sacrifices and the commandment not to delay are brought up again. However, in this case, the analogy comes through a different verse in Deuteronomy, 23:24. "מוֹצָא שְׂפָתֶיךָ, תִּשְׁמֹר וְעָשִׂיתָ: כַּאֲשֶׁר נָדַרְתָּ לַיהוָה אֱלֹהֶיךָ, נְדָבָה, אֲשֶׁר דִּבַּרְתָ, בְּפִיךָ." That which has gone out of your lips, you shall observe and do, since you vowed to Adonai your God, the promise that you spoke with your mouth." It is fitting that the analogy comes through the word for mouth. The Gemara explains: "בפיך זו צדקה; In your mouth, that is charity." The Rosh again helps, by noting that this connects to the commandment not to delay.[28]

The Gemara will now leave the question of designation and partial speech in a way. When the next question is posed, regarding declaring one's property ownerless or *hefker*, the answer cycles back to the question of charity, since giving up belongings is akin to giving charity. "יש יד להפקר, או דלמא אין יד להפקר? היינו צדקה!"[29] Ultimately, the question is not one of whether or not *hefker* can be designated with a partial declaration, but about whether or not *hefker* is analogous to charity. In order for the *yad* to be valid, *hefker* must be analogous to charity. "הפקר מי אמרינן היינו צדקה או דלמא שאני צדקה דצדקה לא חזיא אלא לעניים, אבל הפקר בין לעניים בין לעשירים Do we say that *hefker* is the same a charity, or do we say that they are different, since charity only benefits the poor whereas *hefker* benefits both the poor and the rich?"[30] This issue, therefore is the coupled with the issue of charity, and, one can assume, that an ambiguous *yad* designating something as *hefker* would have just as much designating ability as an ambiguous *yad* designating for charity.

Finally, we arrive at the last example. It is a later question, as evidenced by Ravina asking the question. Ravina wants to know if a *yad* is acceptable for designating a structure as a bathroom. Ravina's question seems to pull from the questions and answers that came before it.

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[28] Rosh to B. Nedarim 7a, Cf. also B. Rosh Hashanah 6a
[29] B. Nedarim 7a
[30] Ibid.

This suggests a constructed sugya, since there is no indication that the previous questions were Amoraic. There is the familiar formula rendering the *yad* ambiguous and there is the question of abbreviated speech as in the charity example. There is then a new twist. An interesting issue of designation comes in this late question. And, the question of designation via a partial declaration is abstracted in a different way.

בעי רבינא: יש יד לבית הכסא או לא? היכי דמי? אילימא דאמר הדין ביתא ליהוי בית הכסא והדין נמי, ההוא " בית הכסא נמי הוה Ravina inquires: Is a *yad* valid for a bathroom or not? What is the case? If we say that he said: 'this building shall be a bathroom; and this one also.' Then it is a bathroom."[31] This all looks familiar, and the Gemara continues by reiterating that in this case, the designator did not say "also." "What then is the 'and this one'?" the Gemara asks. Like in the case of the charity, there is a question as to whether or not the second building might have been designated for general use. This is all very familiar. But suddenly, there is new information and a deviation from the pattern. "מכלל דפשיטא ליה לרבינא דיש זימון לבית הכסא; It is apparent to Ravina that there is *zimun* or designation for a bathroom."[32] Suddenly, we are in a realm of *hazmanah*, which is a general term for designation. We have moved away from the partial declaration issue of the *yad* and moved into a broader category of designation in general. That Ravina takes a step back to ask an underlying question is interesting, since it had not been asked before. Designation was always the assumption when discussing the *yad*, ambiguous or not. The tacit understanding was that words always had the power to designate, and suddenly Ravina brings that into question. It might not be a hard question to answer, given everything that has come before his question in this tractate, but it does show a certain sense that Ravina, perhaps due to his later date, feels it necessary to question the underlying assumption. It is also worth noting that as the shift from

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[31] Ibid
[32] Ibid

yad to general designation occurs, the term for designation changes. Ravina may be using a word for designation from his generation or perhaps this word truly has a separate sense.

The move toward a broader question is also seen in Ravina's next question as the Gemara goes on: "מהו, הזמינו לבית המרחץ מהו הזמינו לבית הכסא *Hazmanah* for the bathroom, what is the law? *Hazmanah* for a bathhouse, what is the law? זימון מועיל או אין זימון מועיל Does *hazmanah* have effect?"[33] This is a question of a different order than the questions than began this sugya. This question asks about designation as a whole. Much like the shift to the language of *hazmanah* the question also points to an issue of whether or not designation by speech has any effect. Ravina, momentarily, has turned the question of the *yad* on its head, challenging the entire supposition. Whether Ravina truly believes this is a question, or whether he is engaging in a purely theoretical inquiry, is impossible to know.

However, it is clear that the more general question does come from the more specific. "רבינא, חדא מגו חדא קמיבעיא ליה: זימון מועיל או אין זימון מועיל Ravina asked one question inside the other. Is *hazmanah* effective or is *hazmanah* not effective? את"ל יש זימון, יש יד או אין יד If you hold that *hazmanah* is effective, is a *yad* effective or not?"[34] This notion that the more specific question must first be broadened brings to the fore the question of whether later sages of the Gemara begin to question in a new and more abstract way. Ravina asks a question that underlies the entire tractate to this point. No one had asked whether or not the speech act had, in fact, changed the object. No one had questioned that a vow changed a status of another person or a relationship or a field. These issues were sidelined for a specific question of a partial vow and its ambiguity. That the sugya ends with Ravina's inquiry answered with "תיבעי ליה Let it stand"[35] serves only to highlight that Ravina's question is a difficult one to grasp. This is about belief in a

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[33] Ibid
[34] Ibid
[35] Ibid

system which has been used for generations being challenged, if only intellectually. Ravina's inquiry could be considered a question about how the rabbis understand their project and their work. Are they working on individual cases or are they creating a system based on abstract thought?

The question of a partial declaration has, therefore, ended at the question of designation and whether or not the Talmud believes that designation is significant or not. Beginning in Kiddushin and moving to Nedarim, the Talmud asks questions about the validity of a partial speech act. There does not appear to be an answer in Nedarim, except to say that as long as the *yad* includes the appropriate directionality and direct object it is valid as a declaration. Ambiguity renders the *yad* invalid and the *yad* can therefore not confer status. Nedarim 6b-7a is an example of a sugya constructed in order to give a sense of trajectory to the legal concepts by allowing different generations of opinions to interact with one another. Ultimately, the sugya moves to the more conceptual realm and away from the specific cases of the earlier generations.

Chapter 2: Designation by Intention

Perhaps the most common distinction of status is the difference between *tahor*, pure and *tamei*, impure[36]. The Torah is both specific and expansive in discussing those objects, fluids and actions that cause a person to acquire impurity. "Generally speaking, it may be said that that which is living and healthy contains no impurity and that impurity increases as an object comes closer to death."[37] The highest order of impurity, therefore, is a corpse, known as *avei avot hatum'ah* or *father of fathers of impurity*. The next level, known as *av hatum'ah* or *father of impurity* includes, among other examples, something that has touched a corpse, a person afflicted with *tzara'at*, and a woman after childbirth. Those things that touch an *av hatum'ah* become *rishon l'tum'ah* or *first degree of impurity*. Anything of an order lower than the *av hatum'ah* cannot transfer impurity to people or vessels. Much of Chagigah 18b-19a covers foods for the priests. Food can acquire a second order of impurity known as *sheini l'tum'ah*.

On the other side of the distinction, there are specific actions, rituals and remedies used to remove impurity from a person or an object. Higher levels of purification through ritual are required, as Chagigah will elaborate, in order to render one either purified or able to come into contact with that which is of a higher level of sanctification. The highest level of purity is from the ashes of the red heifer, which can remove the impurity one acquires through coming into contact with a corpse,[38] the object with the highest level of impurity. This *chatat* water, as it is known, serves as an antidote to the impurity given through touching a dead body, and is used to purify, just as other remedies render pure a person who has acquired lower levels of impurity. The remaining levels of pure things are based on the sacrifices. The level below *chatat*, *kodesh*,

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[36] In this chapter, the words pure and impure will be used exclusively to denote the Hebrew *tahor* and *tamei* respectively.
[37] Steinsaltz, Adin. The Essential Talmud. 2006. P 31
[38] Numbers 19:18-19

is the sacrificial food burned on the altar. Below that, *terumah*, which is the portion given to the priests. *Ma'aser sheini* is the one-tenth portion eaten by the farmer in Jerusalem. Finally, *chullin* is unsanctified food.

The examples of *chatat* rendering objects pure and the corpse rendering objects impure serves to show that the Torah understands purity and impurity as states of being which are contagious. This notion continues into the rabbinic legal mindset. This state of impurity is governed by rules specifying the duration of impurity, the different levels of impurity and how communicable the impurity may be, given the nature of the contact. A corpse being of the highest order of impurity requires the ashes of the red heifer, which are of the highest level of purifying power, and which therefore require the highest level of sanctification. These notions of purity, impurity and their levels are elaborated among other places in the sugya from Chagigah 18b-19a.

This sugya also has much to say about designation of objects and people. As noted above, both objects and people acquire different levels of purity and impurity and therefore require different levels of sanctification. In order to designate the objects and the people to the required levels, the *Gemara* requires certain ceremonies. This sugya deals primarily with water, immersing in water and its effects. Taking a slightly broader perspective, however, the sugya also comes to teach that the mind has an important role to play in terms of these levels of purity and how a person achieves that level. The *Gemara* will elaborate how the Mishnah understands the effect of thought on sanctification and levels of purity. According to this sugya, thought coupled with action has the ability to change a status. The debate will center on whether or not action alone may render a status of sanctification or if the action requires thought.

The Mishnah on Chagigah 18b

The sugya begins on 18b with a series of *mishnayot*. The first two will serve as the basis for the *Gemara* that will be discussed below. The first *mishnah* describes the requirements for ritual hand washing in order to interact with a hierarchy of items susceptible to acquiring impurity. The hierarchy mentioned in this sugya includes in ascending levels of sanctification: *chullin*, ordinary food; *ma'aser sheini* (often referred to simply as *ma'aser*), a one-tenth portion eaten at certain times of year; *terumah*, the portion given to the priests; *kodesh*, sacrifices to God; and *mei chatat*, water with the ashes of the red heifer (often referred to as simply *chatat*). "נוטלין One rinses hands for לידים לחולין ולמעשר ולתרומה. ולקודש - מטבילין, ולחטאת, אם נטמאו ידיו - נטמא גופו *chullin* and *ma'aser* and *terumah*. But, for *kodesh*, one immerses hands (in the mikveh). And for *chatat*, if one's hands became impure, then his entire body became impure."[39] A second mishnah moves into the thought which accompanies immersing in order to interact with these objects of varying sanctity. The Hebrew term for intentionality in this mishnah is הוחזק which has a sense of presumption or holding for a specific state or designation. Throughout the Gemara, this term will be used interchangeably with its synonym, כוונה, which implies directionality or focus of intent.[40]

> טבל לחולין - הוחזק לחולין, אסור למעשר. טבל למעשר - הוחזק למעשר, אסור לתרומה. טבל לתרומה - הוחזק לתרומה, אסור לקודש. טבל לקודש - הוחזק לקודש, אסור לחטאת.

> If one immersed for *chullin* and intended[41] for *chullin*, *ma'aser* is forbidden to him. If one immersed for *ma'aser* and intended for *ma'aser*, *terumah* is forbidden to him. If one immersed for *terumah*, and intended for *terumah*, *kodesh* is forbidden to him. If one immersed for *kodesh* and intended for *kodesh*, *chatat* is forbidden to him.[42]

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[39] Rashi to נטמא גופו B Chagigah 18b notes that therefore the entire body requires immersion
[40] Cf. note 50 below.
[41] The discussion of the meaning and purpose of the term הוחזק *intended*, predicated on the Gemara's discussion of the term, is found below.
[42] B Chagigah 18b

The mishnah then moves to two generalizations regarding immersion and intentionality. " טבל

לחמור - מותר לקל, טבל ולא הוחזק - כאילו לא טבל If one immerses for a more stringent level (of

sanctification) then he is permitted for the less stringent level. If one immerses without

intention, it is as if he never immersed."[43] These last two rules are intriguing because they show

both how the mishnaic system requires intention for certain acts and how it understands intention

to work in tandem with action. At first glance, the Mishnah requires both action and thought.

The *Gemara* will take these notions and try to determine how the mishnaic system works and

what it means. First, there will be a discussion of whether or not *chullin* and *ma'aser* truly

require hand washing, which may seem odd initially given that the Mishnah is seemingly clear

on the requirement. Second, there will be a discussion about intentionality for immersion and

hand washing. From within the discussion of hand washing emerge notions about the effect of

thought and the mind's effects on objects and their status.

The First *Gemara*

The first question of the *Gemara* encompasses the hand washing[44] requirements for

chullin and *ma'aser* described in the Mishnah.[45] This rule requiring hand washing for *chullin*

and *ma'aser* is perhaps confusing to the Gemara because the rules for *terumah*, according to

another mishnah in tractate *Bikkurim*[46] differ from those of *ma'aser*. According to Rashi on this

Gemara, ma'aser does not garner the same punishments as *terumah*, and therefore *chullin* also

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[43] Ibid.

[44] That hand washing is a minimum requirement for purification is traced to a sugya in Shabbat 13b-14a which renders all hands to be of a second order of impurity and therefore unable to touch *terumah* without purification. Apparently as a precaution for the priests, everyone was required to wash hands before eating, so that the priests would become accustomed to this. Cf. B. Chullin 106a

[45] Since this portion of the Gemara does not deal explicitly with notions of thought and its effect on the status of an object, but elaborates and specifies the rules in the Mishnah, a summary with key points and a description of the trajectory of the thought of this portion is provided here rather than a detailed translation. Elaboration is given when necessary.

[46] M. Bikkurim 2:1

would not require the punishments. If the potential punishments are different, the *Gemara* seems to be asking, why are the hand washing requirements the same? The difficulty therefore seems to be between *ma'aser* in the two mishnayot and between *chullin* in the two mishnayot. The discussion becomes focused to *chullin* by describing how for *ma'aser* one opinion is that of Rabbi Meir and one is of the Rabbanan. "בשלמא מעשר אמעשר לא קשיא: הא - רבי מאיר, והא - רבנן."[47] But even with *chullin,* there appears to be no difficulty. One response suggests that it is the difference between eating and touching, so there is no difficulty. But, this also is quashed. Ultimately, the *Gemara* will parse the question down to truly being the difference between eating fruit designated as *chullin* and eating bread designated as *chullin*: " כאן - באכילה דנהמא כאן - באכילה דפירי"[48]

This first discussion of the *Gemara* serves as a catalyst for that which follows, pertaining to levels of purity, levels of sanctification, methods of rendering people and objects sanctified to different levels and the intention of the person with regard to objects, items, and the practice of sanctification. Initially, the discussion continues about the difference between *chullin* and *ma'aser*. In a bit of interesting and possibly deliberate editing, human interaction with fruit will also appear again as an example later in the *Gemara*.

This Sugya's Question of Intentionality

The question of intentionality in the sugya begins just before the end of 18b, with a source (an *apparent baraita*) introduced by: תנו רבנן. This break in the sugya transitions from an initial question to a secondary question that moves beyond the already defined requirements of hand washing and asks about intention. Unlike the mishnah, the *Gemara* asks about *kavannah*

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[47] B. Chagigah 18b
[48] Ibid.

rather than *chazakah*.[49] These words are synonymous, and have a sense of mental preparedness, direction or intentionality. Rashi even notes that they are synonyms,[50] but there may be more to the appearance of different words than simple term variance.

> תנו רבנן: הנוטל ידיו, נתכוון - ידיו טהורות, לֹא נתכוון - ידיו טמאות. וכן המטביל ידיו, נתכוון - ידיו טהורות, לֹא נתכוון - ידיו טמאות.

> Our rabbis taught [in a *baraita*]: [Regarding] one who washes his hands: if he had intention, his hands are pure. If he did not have intention, his hands are impure. Thus it is also with one who immerses his hands [in a mikveh]: if he had intention, his hands are pure. If he did not have intention, his hands are impure.[51]

This is entirely new to the discussion that preceded it. Prior to this *baraita*, the *Gemara* focuses solely on action. The mishnah, however, makes a turn toward intention and the connection between the mind and the action and so the Gemara will follow. The mind was not a factor for designation before, but now the distinct categories of purity and impurity are entirely reliant on one's state of mind as one completes ritual. That this *baraita* is brought in to make this point shows that the editors of the *Gemara* seem to infer a tannaitic sense of the role of the mind in ritual, although that notion may not have been fully present for the tannaim.

But, this is not the end of the argument. The *Gemara* brings in a conflicting *baraita*. "והתניא: בין נתכוון בין לֹא נתכוון - ידיו טהורות!" But wasn't it taught [in a *baraita*] whether or not one had intention, his hands are pure!"[52] This *baraita* and the one before it present the question of intentionality. According to one source, intention is required for the hand washing to be valid in terms of purifying. According to the other, it is the action itself that renders the hands purified, not the intention. Since this sugya has been working with different levels of human

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[49] See below for a discussion of these different terms in this sugya as well as its parallel in B. Chullin 31a-b where the different terms may be an indication of origin of material and its migration between tractates.
[50] Rashi on Chagigah 18b, see comment to טבל לחולין - הוחזק לחולין where Rashi comments: כלומר נתכוין לטבול לשם חולין, which is to say that *chazakah* and *kavannah* are essentially the same process.
[51] B. Chagigah 18b
[52] Ibid.

sanctification and objects of different levels, Rav Nachman comes in to teach that in the case of

the second *baraita*, which does not require intention, is describing *chullin*. The first *baraita*,

which makes a distinction between intentioned and non-intentioned hand-washing, is therefore

discussing *ma'aser*. "אמר רב נחמן: לא קשיא! כאן – לחולין. כאן - למעשר." Rav Nachman said: 'this is

not a difficulty. In this instance [of the second *baraita*, it refers to] *chullin*. In this instance [of

the first *baraita*, it refers to] *ma'aser*."[53] This debate about the role of the mind working in

tandem with a ritual action frames much of what is to follow and remains the key question for

the Amoraic discussion.

Kavannah as an answer to Rav Nachman's Assertion

Having narrowed the question, the *Gemara* shifts its discussion entirely to the question of

chullin and intentionality defined as *kavannah*. The question posed to Rav Nachman

immediately following his distinction begins a section of the Chagigah sugya that closely

parallels a sugya in B. Chullin 31a-b. In response to an apparent Amoraic question, both

versions cite three mishnayot and one *baraita*. The tannaitic sources, however, serve more as an

answer to a question about *kavannah* rather than an answer about *chullin,* which may indicate

that the legal interests of the Amoraic or more likely postamoraic sages dictated the quotation of

these sources. In the Chullin version, there is first an assertion, "וחולין לא בעי כוונה" *chullin* does

not require *kavannah*," and then a question posed, "ומנא תימרא?" And from where do you say

[this]?"[54] In Chagigah, there is only the question: "ומנא תימרא דחולין לא בעו כוונה?" From where can

you say that *chullin* does not require *kavannah*?"[55] In both Chullin and Chagigah, the assertion

that *chullin* does not require intentionality during a hand-washing is attributed to Rav Nachman,

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[53] Ibid
[54] B. Chullin 31a
[55] B. Chagigah 19a

though the assertion comes from different discussions. In Chullin, the question arises from the

case of a woman immersing in the ritual bath as opposed to the question of sanctification for

interaction with objects of higher levels of sanctity. The different contexts of Rav Nachman's

tradition suggest that only the most basic form of the tradition is attributable to Rav Nachman.

In both cases, the *Gemara* continues with a quote from Mishnah Mikvaot 5:6 and adds a

notion of intentionality to it. "דתנן: גל שנתלש ובו ארבעים סאה, ונפל על האדם ועל הכלים - טהורין." It was

taught [in a mishnah] a wave which becomes detached and contains forty *seah* of water which

falls on a man and on utensils, they are pure."[56] The mishnah declares that the action of the

wave falling on the man declares him and his utensils pure. The *Gemara* continues by

extrapolating the rule: "קתני אדם דומיא דכלים, מה כלים דלא מכווני - אף אדם דלא מכוין." This teaches that

a man is similar to utensils. Just as utensils do not intend to be immersed, so to the man does not

intend."[57] Since the mishnah declares the man and the utensils pure, and the utensils cannot have

intention, then a man's intention is not necessary, at least in cases of *chullin*. The *Gemara* is

trying to make sense of the tannaitic source by appending the notion of intention to an example

that does not describe intention at all. The mishnah from Mikvaot tells only of a man—and his

tools—who happen to be purified by a wave. There is no notion of intention. The Stam reads

intention into the scenario. This shows the postamoraic proclivity for abstracting rules and

inserting a particular legal sensibility: in this case, the notion of intention.

The Stam continues with an alternative reading challenging the understanding that the

man and his utensils do not require intention. "וממאי? דלמא ביושב ומצפה אימתי יתלש הגל עסקינן" And

what [is the evidence]? Perhaps we are dealing with [one who] sits and anticipates when the

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[56] Ibid.
[57] Ibid.

wave will detach." [58] Continuing to extrapolate possible intention to the scenario, the *Gemara*

continues: "וכלים דומיא דאדם, מה אדם דבר כוונה, אף כלים דמכוין להו And utensils are similar to people,

just as a person has intention, so too the utensils, where the person has intention for them."[59]

The notion of thought and its effect on the utensils is presented here in a way which gives

inanimate objects the ability to acquire intentionality for purification simply because a person

intends for them to be purified. This notion, though not ultimately sense of the rule, means that

without the human mind, the wave would have no effect on the objects. This is a radical notion

about the confluence of mind, ritual, and object. What does the mind accomplish without the

wave? And, what does the wave accomplish without the mind? The mishnah teaches that the

wave doesn't need the mind, at least in the case of *chullin*. But recall that *chullin* is the only level

of sanctity which may not require intention. This means that other levels, like *ma'aser*, require

intentionality, and therefore, will have some connection and requirement that the mind be

directed at the time of the immersion. This will be the case later in the *Gemara*.

At the end of the discussion of the detached wave, the Stam explains that the mishnah is

not there to decree about intention and purifying by wave, because it would be redundant.

Rather it is there in order to prevent one from believing that immersion in a torrent of rainwater

or immersion in the arch of a wave is valid.

סלקא דעתך אמינא: ליגזור דלמא אתי למיטבל בחרדלית של גשמים, אי נמי נגזור ראשין אטו כיפין, קא
משמע לן דלא גזרינן .

> It could have entered your mind to say that we should decree against it, lest one come to
> perform immersion in a torrent of rainwater running down a slope or that we should
> decree against [immersion in] the heads of waves on account of [immersion in] their
> arches. We are informed that we do not so decree.[60]

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[58] Ibid.
[59] Ibid.
[60] Ibid.

The *Gemara* seems to be saying that intention is not the purpose of the mishnah from Mikvaot, yet the groundwork has been laid for the discussion of the mind's interaction with ritual, particularly immersion.

The *Gemara* will now pick up on one aspect of the previous ruling. Asking about the prohibition against immersion in the arch of the wave as opposed to the head of the wave, the Stam brings in another *baraita*, which is then overruled by a mishnah which is seemingly unrelated to the discussion. ומנא תימרא דלא מטבילין בכיפין? דתניא: מטבילין בראשין ואין מטבילין בכיפין, לפי שאין מטבילין באויר From where do we know that we do not immerse in the arch [of the wave]? It was taught [in a *baraita*]: we immerse in the heads and not in the arches, since we do not immerse in the air."[61] This may be included as a coda to the wave discussion and to rule out any sense that this ruling may have more to say about intentionality.

Designation without Intention Regarding Fruit in Water

The *Gemara* now brings us back to fruit and its status, which had been discussed earlier. This is not a continuation, but most likely serves as a motif, giving the trajectory of the Gemara some clear connection to that which came before it by tying it to the subject matter. The thematic connection may also be a reason why this section may have been included in Chagigah as well as Chullin. The *Gemara* brings a second answer to the question about *chullin* requiring intention from a Mishnah Machshirin 4:7.

> אלא מהא, דתנן: פירות שנפלו לתוך אמת המים, ופשט מי שידיו טמאות ונטלן - ידיו טהורות, ופירות אינן בכי יותן. ואם בשביל שיודחו ידיו - ידיו טהורות, והפירות הרי הן בכי יותן .

> Rather [the answer comes] from here. Fruit which fell into a channel of water, and one whose hands are impure comes and sends his hands into the water and took the fruit, his hands are pure and the fruit is not liable to [the provision] *chi yutan*. But if he immersed

[61] Ibid.

his hands in order to rinse them, his hands are pure, but the fruit is liable to [the provision] *chi yutan.*[62]

This example's notion of intention and its effect on objects are also interesting. In order to fully comprehend the ramifications of this mishnah, it is necessary to understand the provision of כי יותן. Literally meaning 'if the water is placed' this comes from Leviticus 11:34. Food cannot acquire impurity without first getting wet. But the rabbis will later limit this rule only to water which is intentionally placed on the food, such that if it rains on the food, it is not susceptible to impurity.

This sense of intentional moistening is critical to this example of hand washing and fruit. Essentially, if the person intends to retrieve the fruit, it is an indication that the fruit is in the channel accidentally, which means it cannot acquire impurity. In addition, a result of the immersion in the water is purified hands, which did not require intention. On the other hand, if the purpose of putting one's hands in the water is to rinse, the hands become pure, even without intention, but the fruit has now moved into the category of intentionally moistened, since the person did not attempt to retrieve the fruit. This is a compelling scenario in terms of the mind's ability to affect the status of an object. The person need not even consider the fruit. Potentially, they don't even know the fruit is there; and yet, the fruit is now given the status of כי יותן. The mind has the power to affect something it is not even considering, because it is not considering it. As with most examples, the change of status does not take effect until an action is taken and the hands go into the water. This notion of action and thought together will be examined in a more extreme case later in the sugya in a discussion of levels of sanctification in the mikveh.

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[62] Ibid.

Rabba and Rav Nachman's Discussion of *Chazakah*

The sugya now switches back to the term *chazakah* to discuss intentionality. Rabba

challenges Rav Nachman regarding intention, immersion and *chullin*. Rabba quotes this sugya's

mishnah and the following discussion is similar in structure to the earliest parts of the sugya

which attempt to define the boundaries of the mishnah's rules. This may be an indication that

the discussion between Rabba and Rav Nachman has always been included in the *Gemara* for

this mishnah. " איתיביה רבה לרב נחמן: הטובל לחולין והוחזק לחולין - אסור למעשר, Rabba challenged Rav

Nachman: One who immerses [in a mikveh] for *chullin* and intended for *chullin*, is forbidden

from *ma'aser*."[63] Rabba continues by asking whether or not this means that immersion with

intention is required for chullin, which would be a contradiction of Rav Nachman's ruling from

earlier. "לא – הוחזק לא, אין - הוחזק [Does this mean that] if he intended – yes [he may eat of

chullin], if he did not intend, no [he may not eat of *chullin*]."[64] The Stam explains that this does

not imply a requirement for *chullin*, rather as it says, one who is sanctified for *chullin* cannot

partake of *ma'aser*. "הכי קאמר: אף על פי שהוחזק לחולין - אסור למעשר. This actually teaches that even

though he has intended for *chullin*, he is forbidden for ma'aser."[65]

This discussion continues with yet another challenge from the mishnah. " איתיביה: טבל ולא

הוחזק - כאילו לא טבל. [Rabba] challenged [Rav Nachman from the mishnah], If he immersed and

did not have intention, it is as if he did not immerse."[66] The mishnah appears to be clear,

according to Rabba. Without intention, immersion in a mikveh has no effect. The *Gemara* has

already taught that immersion without intention can render hands pure through the example of

the fruit in the channel. Rabba recognizes that this is a contradiction to the mishnah which must

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[63] Ibid.
[64] Ibid.
[65] Ibid.
[66] Ibid

be resolved. He continues his questioning and then the answer is given. " מאי לאו - כאילו לא טבל

כלל! – לא, כאילו לא טבל למעשר, אבל טבל לחולין. Is this not saying that it is as if he did not immerse at

all? No, it is as if he did not immerse for *ma'aser*, but did immerse for *chullin*." The line that is

being drawn here is the distinction between *chullin* and *ma'aser*. Immersion without intention

allows one to partake of *chullin*, but not *ma'aser*. As has been the case through much of the

sugya, particularly the first *Gemara* discussion, rules for *chullin*, being of the lowest order of

sanctification, are the most lenient.

In the end, Rabba agrees with Rav Nachman, who has made a case that the mishnah

which Rabba quoted about immersion without intention is only referring to chullin. " הוא סבר דחי

קא מדחי ליה, נפק, דק ואשכח. דתניא: טבל ולא הוחזק - אסור למעשר ומותר לחולין [Rabba] thought that

[Rav Nachman] was pushing him aside, but he went checked and discovered. For it was taught

[in a *baraita*]: if one immersed and did not have intention, he is forbidden from *ma'aser*, but

allowed for *chullin*."[67] This tannaitic source responds to the mishnah's line regarding immersion

and intention. The mishnah is not discussing every level of purity and sanctification, merely the

lower levels. Intention is required for every level above *chullin*. This means that the mind's

ability to designate has a distinct effect on a person and his ability to interact with certain foods

and objects. The Gemara will address the different levels briefly in the next discussion.

The Chullin-Chagigah Parallel

Before moving to the next discussion, it is important to pause here to discuss the parallels

between Chagigah and Chullin. It is the discussion between Rabba and Rav Nachman that

serves as the end of the parallel material. Recall that Chullin begins with a declarative version of

the question about *kavannah* found at the top of 19a in Chagigah. Chullin's version immediately

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[67] Ibid.

follows questions of complete immersion revolving around a discussion of *kavannah*. Chagigah makes a shift from hand washing to complete immersion. The progression of subject matter in Chagigah does make sense given the progression in the Chagigah mishnah, which also moves from hand washing to immersion. However, it may be more strongly connected to the immediately preceding subject matter in Chullin, a discussion of immersing in a mikveh.

The discourse on *chullin* that refers to *kavannah* may have been added for thematic and subject matter reasons. Based on subject matter, at least part of Chagigah, particularly those pieces which use the term *kavannah,* may have originated as material not original to the discussion of the Chagigah mishnayot. *Kavannah* is not the term used for intention in the Mishnah to Chagigah; that term is *chazakah.* Even though the tannaitic sources at the bottom of Chagigah 18b beginning with the תנו רבנן do not appear in Chullin, the discussion of *kavannah* indicates that this discussion differs from other discussion about that mishnah. This may be more proof of postamoraic editing in order to give tannaitic credence to an idea the tannaim may not have held. It is possible that the discussion between Rabba and Rav Nachman on Chagigah 19a that refers to *chazakah* at one point immediately followed the discussion of fruit and bread as *chullin* on 18b.

Though there can be no definitive answer to questions of migration of material, it does appear that the difference between the use of *kavannah* and the use of *chazakah* as it reappears lower on the page may be a clue as to which sections come from an Amoraic discussion original to this mishnah and which come from a discussion originating elsewhere. The most intriguing part of this is that the term for intentionality as defined by the Chagigah mishnah seems to make its way to the Chullin text, where it looks more foreign than does the discussion of *kavannah* in the Chagigah text. Finally, the Rabba/Rav Nachman piece that closes out the section may have

made its way back into the Chullin sugya, since it was known to be a part of the *chullin*

kavannah discussion in Chagigah. It is interesting to note that the wording of the final *baraita*

quoted to close out the parallel differs slightly. In Chagigah, we end with " אסור למעשר ומותר

לחולין" but in Chullin we end with "מותר לחולין ואסור למעשר." This is a subtle difference that does

not in any way change the meaning of the tannaitic material. It may represent that the tannaitic

material was not truly fixed as it made its way into the *Gemara.*

Immersing in the Mikveh and Different Levels of Sanctification

The sugya's discussion of intentionality in terms of sanctification closes with an

interesting question about the purpose of action and the purpose of thought. Moving to the

question of complete immersion, the Gemara quotes Rabbi Elazar's assertion about the

interaction between immersion and intention. Here, Rabbi Elazar uses the term *chazakah* for

intention. "אמר רבי אלעזר: טבל ועלה - מחזיק עצמו לכל מה שירצה." Rabbi Elazar said: one who

immersed and came out can intend for himself any [level of sanctification] that he wants."[68] For

Rabbi Elazar, action and intention are intertwined, but he appears to be saying that two need not

occur at the same time. Though it might behoove the *Gemara* to answer the question about how

long in between action and intention one may wait, it does not do so explicitly. The challenge to

this will come from an anonymous questioner citing a *baraita*, who takes issue with Rabbi

Elazar's apparent belief that one may be completely out of the water before intending a level of

sanctification.

Whereas we have already learned that no intention is appropriate and effective with

regards to *chullin*, the other levels of sanctification require intentionality. The challenge,

therefore, is about how connected the intention and the immersion must be. " מיתיבי: עודהו רגלו

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[68] Ibid.

אחת במים, הוחזק לדבר קל - מחזיק עצמו לדבר חמור, עלה - שוב אינו מחזיק. There is a challenge: As long as one of his legs remains in the water, if he may intended for a lower level, he may intend for a higher level. [As soon as he] came out [of the water completely] he may no longer intend."[69]

This is an attempt to clarify how connected the immersion and the intention must be. According to Elazar, the connection between immersion and intention need not be immediate; but the Stam seems to be uncomfortable without some semblance of rules and limits to Rabbi Elazar's notions about this. The Stam questions whether or not the *baraita* refutes Rabbi Elazar's statement, and thereby allows the rule for immersion and intention to be defined in three if-then statements.

מאי לאו - אינו מחזיק כלל? לא, עודהו - אף על פי שהוחזק - מחזיק, עלה, - אם לא הוחזק - מחזיק, ואם הוחזק - אינו מחזיק.

> Is it not that [the *baraita* is saying] that one cannot intend at all? No. As long as [he has a leg in the water], even if he intended, he may [re]intend. If he emerged [completely from the water], if he did not intend, he may intend; but if he [already] intended he may not intend.[70]

Here we have a clear definition of the relationship between immersion and intention. Since both elements are necessary, neither one can be done without the other. If there is immersion, there must be intention. If there is intention, it has to be in tandem with immersion. The questions therefore change. What is allowed when the immersion is complete? And, when are the immersion and intention considered to have been completed? According to the challenge to Rabbi Elazar, if either immersion or intention is in a state of incompleteness, intention can be made or made again.

This represents an interesting understanding on the part of the Amoraim. Intention can be changed without redoing immersion, provided that immersion is not completed. This is interesting because it does not require a predetermination on the part of the person. The person

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[69] Ibid
[70] Ibid.

may, in essence, change his or her mind mid-immersion and not have to do anything other than change the mind. This grants the mind an extraordinary amount of power to designate status. On the other hand, the mind cannot change on its own. Even though the action may be the same for *ma'aser, terumah, kodesh,* and *chatat*, immersion, the mind cannot designate on its own. The mind is only a non-factor for chullin, which is ordinary and lowest level. This shows that from the Mishnah through the Talmud, the mind has an ability and power to affect the status of objects.

The sugya in Chagigah and it parallel in Chullin show a distinct sense of the rabbinic notion of the mind's interaction with objects and the mind's effect on those objects' status. By parsing laws down to what requires mental intervention and what does not, the later layers of the Talmud make a case that the tannaitic sense was in need of refinement. The mishnah that is presented here is overly broad and too general with its principles and requirements regarding hand washing, immersion and intention. The sugya, along with its parallel, connects disparate notions of mindfulness into one sense of intention. That *kavannah* and *chazakah* are essentially the same, as Rashi notes, means that the mind's abilities need not be specifically parsed out, except to say that the mind can make distinctions and uses that ability to determine an object's status in tandem with a ritual act.

Chapter Three: Designation by Action

Jewish legal tradition may not fully endorse the multipurpose object, at least not as far as objects designated for specific ritual purposes are concerned. Certain objects are created for certain purposes and those purposes determine the use of the object as well as the prohibitions on the use of the object. In the midst of a discussion about execution and proper burial in B. Sanhedrin 46a-49a is a sugya that seems to stand apart. This sugya, which begins near the bottom of 47b and ends near the middle of 48b, examines a dispute between Rava and Abaye. It moves through a series of eight challenges[71] pertaining to objects and their designation and asks the same question over and over: Does use of an object in a specific way or for a specific purpose render that object earmarked or designated for a specific use and therefore void for other uses? More abstractly, the question is whether or not an object can be designated. In the language of the sugya: *does designation matter*? And, does designation for use render the object's status the same as actual use? The term for designation in this sugya is הזמנה, a term which we earlier saw deployed by Ravina in B. Nedarim 7a. This sugya moves from specific to abstract over the course of its challenges, using each challenge as legal rebuttal or proof for one side or the other. In the end, the challenges come out even: four which side with the view that designation matters and four which side with the view that it doesn't. Yet, the sugya ends with a final inquiry by Ravina and ultimately a victor is named in the dispute: the Halakha is according to Rava.

Beginning with the opening scenario and ending with the final challenge by Ravina, there appears to be a very specific scenario dealing with a shroud woven for a dead person.[72] Leib Moscovitz has posited that due to the sugya's generally anonymous nature, it is likely mostly

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[71] See Appendix. Challenges to the case have been enumerated.
[72] See Appendix. labeled Prologue and Epilogue

postamoraic.[73] He also notes that the debate between Rava and Abaye is not at the level of legal abstraction commenting that the opening and closing "deal with weaving shrouds and not with the legal status of designation."[74] This means that for this sugya, the legal concept of designation is a later addition to an earlier discussion about a specific scenario. The postamoraic tendency to move from the realm of specific to abstract is on full display here, not only in the framing example, but also in the eight specific challenges meant to elucidate the abstract concept. The challenges show how use of an object may or may not render an object designated.

The Framing Case

The case that opens and closes this sugya is almost immediately separated from its specific details in order to focus on a more abstract legal question. In the first line, there is a dispute about a specific item. "איתמר, האורג בגד למת, אביי אמר: אסור, ורבא אמר: מותר." It has been said, One who weaves a shroud for a dead person, Abaye says it is forbidden [to be used for another purpose] and Rava says it is permitted [to be used for another purpose]."[75] It is here that the Talmud presents a clear 4th generational dispute about a specific matter of law. The issue arises from a prohibition on benefitting from something that belongs to a dead person. Adin Steinsaltz, in his Hebrew translation of and elaboration on the Aramaic texts states that there is a prohibition against "benefit, as is the case with all items which belong to the dead."[76] This is important because it is necessary to know about the ownership of the item. Later in the sugya (challenge 5), there will be a question of inheritance revolving around, in part, the notion of a dead person owning property and keeping money. If a dead person can own, then an object can

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[73] See Moscovitz, Leib. "Designation is Significant" in AJS Review 27:2 (2003) p 235-236
[74] Ibid. p 236
[75] B Sanhedrin 47b
[76] Steinsaltz Hebrew translation to B Sanhedrin 47b

be designated for them. If the object is designated for the dead, then another person cannot benefit from its use.

At this point, all that can be surmised is that Rava and Abaye are disputing the ability to benefit from a shroud that is woven for the dead person. Rashi explains to us that the person is already dead, meaning that the shroud is not for a living person who will die at a later point. This issue will be examined later as well (challenge 2). Moscovitz posits that even the next line that raises the dispute to a higher level of abstraction dealing with designation is postamoraic as well. "The Talmud's explanations of these rulings, which are formulated in Aramaic and appear after repetition of the original casuistic rulings…were apparently not formulated by *Amoraim*, but by the anonymous stratum of the Talmud."[77] " אביי אמר: אסור, הזמנה מלתא היא. ורבא אמר: מותר, הזמנה לאו מילתא היא. Abaye says, it is forbidden, designation is significant. And Rava says, it is allowed, designation is not significant."[78] The Stam of the Talmud, therefore, abstracts the rule to broaden the scope of a specific ruling and create a theory of law rather than rely on precedent.

The prologue continues with the reasoning behind Abaye's opinion and Rava's opinion relying on two versions of an analogy.[79] Both Rava and Abaye use an analogy with the word "שם" meaning "there". " דאביי - גמר שם שם מעגלה ערופה. מה עגלה ערופה - בהזמנה מיתסרא, האי נמי - בהזמנה מיתסרא."[80] Abaye connects the word שם from Numbers 20, "and Miriam died there" with the שם in Deuteronomy 21:4, "break the heifer's neck *there*." Just as the heifer was designated before use, so too is the shroud designated before use. Rava draws his analogy from a different set of שם. " ורבא גמר שם שם מעבודה זרה, מה עבודה זרה בהזמנה לא מיתסרא, אף הכא נמי - בהזמנה לא

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[77] Moscovitz, 235
[78] B. Sanhedrin 47b
[79] If it is truly the case that the statements after the initial scenario are no longer attributable to Rava and Abaye, then all that follows should be referred to as if it were the Stam's opinion. Rather than become mired in attributions, I have chosen to stick with the Talmud's attributions.
[80] B Sanhedrin 47b

"מיתסרא".[81] For Rava the analogy is between Miriam's death and Deuteronomy 12:2 which specifies that the place where idolatry had been performed must be destroyed. Rava here draws on a rule from tractate Avodah Zarah regarding designation for idolatry.[82] " והתניא: האומר בית זה לעבודת כוכבים, כוס זה לעבודת כוכבים - לא אמר כלום, שאין הקדש לעבודת כוכבים It has been taught [in a *baraita*] one who says this house is for idolatry or this cup is for idolatry, he has said nothing, for there is no dedication to an idol."[83] Rashi elaborates on this: "By word of mouth, it must be offered to the idol."[84] This comment seems to say that mere words do not designate the object or the location, but the use of the object. Therefore, it is not designation that is significant, but use of the object for its intended purpose that would then prevent its use in another circumstance.

Abaye and Rava's points are debated more in the prologue, focusing on why each one didn't accept the other's analogy of שם. Rava argues that the analogy from idolatry isn't effective because: "מידי דאורחיה ממידי דאורחיה - גמרינן, לאפוקי עבודה זרה דלאו אורחא Something which is "its way" is deduced from something which is "its way"—thereby excluding idol-worship as to which it is not "its way." Rava, on the other hand argues that the broken-necked heifer is an inappropriate analogy because: "משמשין ממשמשין גמרינן, לאפוקי עגלה ערופה דהיא גופה קדושה Objects of service [for the dead] are deduced from objects of service [to idolatry], thus excluding the broken-necked heifer, which is in itself forbidden." Interestingly, the arguments attributed to each of them posit that the other's inference relies on something forbidden. The inclusion of this discussion serves to further the sense that there is an abstraction of a specific rule. By bringing in hermeneutics and connections to other sources of law, the Stam appears to be broadening the scope of the specific argument originally discussed between Rava and Abaye.

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[81] Ibid.
[82] Cf Rashi to עבודה זרה בהזמנה לא מיתסרא on B Sanhedrin 47b
[83] B. Avodah Zarah 44b
[84] Rashi to: "שאין הקדש לעבודת כוכבים" in B AZ 44b

This prologue is connected with the epilogue to this sugya. Moscovitz posits that the opening and closing are connected because they appear to be Amoraic and are the only sections which do not deal with designation, rather focus on the specific case at hand.[85] If this is the case, there is clear intent that allowed the scenario to be divided and overshadowed by a discussion of the abstract concepts. It is in the epilogue to the Rava-Abaye dispute where an answer is given. This answer then serves to be the answer not only to the specific case at hand regarding the shrouds, but to the abstract questions of designation and its significance. Abaye and Rava, if the sources and Moscovitz are to be believed, do not have an answer about designation because they never had a question about designation. Later layers of Talmudic authorship project an answer based on their specific scenario.

This is all the more interesting, given Ravina's insertion into the discussion in the epilogue. As has been noted in the chapter on designation by voice, Ravina often arrives to broaden the discourse on his own. In this case, Ravina comes to ask whether or not the specific case implied in the prologue is even a possibility. In the prologue, Rashi notes that the shroud woven is for one after they die,[86] so as to prevent any sense of confusion as to timing of the weaving in relationship to the death. This is important given the challenges which question items designated for people who are not dead yet. Ravina comes to challenge the entirety of the dispute to determine whether or not the case is even possible. " אמר ליה רבינא לרבא: מי איכא דוכתא דרמו ביה מת וארגי בגד למת? Ravina said to Rava: Is there any place where the dead lie while the shroud is being woven?"[87] Ravina wants to know if there is a place where the shroud is not started until after the death has occurred.[88] If the shroud is begun before the death, then the item

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[85] Moscovitz, pp 235-6
[86] Rashi to האורג בגד למת B. Sanhedrin 47b
[87] B Sanhedrin 48b
[88] Cf. Rashi on Ravina's challenge.

is not designated for the dead person. Therefore, someone can derive benefit for it. If Rava answers no, the discussion is purely hypothetical. "אמר ליה: אין, כגון שכבי דהרפניא [Rava] said to him: Yes. Such is the example of the residents of Harpania."[89] The residents of this place were so poor that they waited until the person died before they made a collection and began to weave the shroud.[90] Ravina's challenge is answered that this case is possible and perhaps likely.

In the end, the *halakha* is according to Rava, but not everyone agrees. " הלכתא: דרש מרימר כוותיה דאביי, ורבנן אמרי: הלכתא כוותיה דרבא. והלכתא כוותיה דרבא. Mareimar said: the Halakha is according to Abaye. But the Rabbis said the Halakha is according to Rava. And the Halakha is according to Rava."[91] The question then arises, which Halakha? For which question is Rava's answer correct? Is it the specific case or the abstract case? Is it the shroud or is it designation. If Rava's opinion is correct in the specific, it is an indication about no more than a shroud. If it is correct in the abstract, then an object cannot be designated until its use for the specific purpose. This means that until the object is used for a dead person, it cannot be designated for a dead person and prevent benefit. This sugya seems to be saying that action is required for designation. Intent is simply not enough on its own. This will be disputed without much resolution through the eight challenges that comprise the body of the sugya.

The Eight Challenges

The body of this sugya comprises much of pages 48a and 48b. The eight challenges present a full scope of the ramifications of this law and its interpretation in all directions. There is a sense that the compilation of this sugya was methodical and careful, given how perfectly the challenges take each possible side of both the specific question debated between Rava and Abaye

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[89] B Sanhedrin 48b
[90] Rashi to כגון שכבי דהרפניא B Sanhedrin 48b
[91] B Sanhedrin 48b

and the abstract question that seems to have been imposed upon them. This is one of many such sugyot. All eight of these scenarios deal with an object that has been designated in some way. All of the scenarios want to know whether or not the designation takes hold onto the object to change its status and its capacity for use in another setting. Does the designation hold? Though the Gemara does not come out and say so explicitly, each of the challenges appears to have an answer to this question.

Of the eight challenges, four of them teach that designation does hold (challenges 1, 2, 3, and 7) and four of them teach that it does not (challenges 4, 5, 6, and 8). Of the eight challenges, three of them focus on cloth (challenges 1, 7, and 8) and five of them focus on the dead (challenges 2-6), fully pulling apart the original question of a shroud woven for a corpse into its component parts.[92] There is no indication that a challenge of one kind necessitates an answer on one side or the other. The fact that there is an equal number on both sides of the designation answer may be an indication that, Rava's final opinion notwithstanding, the answer to this question remains somewhat in dispute. It is also interesting to note that the challenges with cloth constitute the beginning and ending of the series while those regarding the dead form the center of the sugya. Additionally, all but the first challenge is in the form of a תא שמע yet there is not a final challenge that serves as the example which specifies the rule to be followed. Rather there is a question about the law, not a specific case. These challenges will show a sense of the differing notions of when designation matters and when it does not.

There is not a final example which serves as the decisive example. There is only the epilogue which may have initially only been valid in the specific first case described in the prologue. However, if the Stam chose to put all the pieces together to lead to Rava's answer

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[92] Of these five, challenge 6 is about the clothes of the dead person, but as they belonged to him in his life, they do not fall into the category of something created expressly for the dead.

being accepted, perhaps the goal was indeed to note that designation does not hold.[93] There is, therefore, the possibility that each challenge was picked in order to give some balance to the discussion, and while keeping both the initial question and its answer in mind. This explains why the cases revolve around both cloth and the dead, as opposed to other objects that may have been designated but not used yet. This sugya reads as a distinct sequence of discourse with a clear topic. It includes a beginning that poses the question, a middle that challenges it, and an end that seems to resolve it. Moscovitz posits that "this sugya should not be considered a comprehensive hermeneutically and conceptually rigorous analysis of designation."[94] He notes that the sugya seems to have been compiled as much for literary reasons as for conceptual. It is not clear whether or not the anonymous redactor who may have crafted this sugya would have had the same sense of distinction between literary and conceptual as is held today. But it does appear clear that the subject matter of the sugya—cloth and the dead—and the designation issues surrounding them create a unified whole.

The first challenge[95] comes in the form of a question about cloth and impurity. The question involves a cloth that has become impure through *midras*, a term which implies that the cloth bore the weight of a person in an impure state of emission.[96] " מיתיבי: כפה שהוא טמא מדרס ונתנתו לספר - טהור מן המדרס, אבל טמא מגע מדרס A challenge: A kerchief which has acquired impurity of *midras* and is given [or: designated as a cover] for the book [of the Law] – it is purified from *midras* but still may acquire impurity through contact with *midras*."[97] If this cloth in a state of *midras* is wrapped around a Torah scroll, it becomes purified. But Rashi notes that

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[93] Recall, that Ravina's question in Nedarim regarding designation is not answered.
[94] Moscovitz, p 252
[95] For each challenge, it will be beneficial to explore the notions of designation and how those notions affect their response to the case at hand. Where possible and necessary, a full exegesis will be given.
[96] This challenge closely resembles M. Kelim 28:5
[97] B Sanhedrin 48a Some readings here end with "the dead"

even if it is purified it retains a lower level of impurity, thereby noting that the status of the object does matter and refuting Rava.[98] But the challenge goes on. Rav Chisda and Abaye come to bolster the point that designation does, in fact, matter.

אימא: נתנתו וכרכתו. - למה לי נתנתו וכרכתו? - כדרב חסדא. דאמר רב חסדא: האי סודרא דאזמניה למיצר ביה תפילין וצר ביה תפילין - אסור למיצר ביה פשיטי. אזמניה ולא צר ביה, צר ביה ולא אזמניה - שרי למיצר ביה פשיטי .

> Say: It was given [designated] and wrapped around. Why do we need to say that it was [both] given and wrapped? According to Rav Chisda who would say: If a cloth was assigned for wrapping tefillin, and tefillin were wrapped in it, it is forbidden to put coins in it. If it was assigned [for tefillin] but they were never put in it, or if it was not assigned, but used to wrap [tefillin] one may put coins in it.[99]

Rav Chisda is trying to show how both action and intention are required to change an object's status. It requires both designating the object and using the object for that purpose. Designation does matter but only insofar as it is coupled with action. This is not quite the end of the challenge. Rav Chisda here seems to be agreeing with the viewpoint assigned to Rava, although this case seems to push in the other direction. Abaye is brought in to make his case.

For ולאביי, דאמר הזמנה מילתא היא, אזמניה אף על גב דלא צר ביה. צר ביה, אי אזמניה - אין, אי לא אזמניה – לא" Abaye, who said that designation matters, if one assigns the cloth, whether or not one puts coins in to it or not, if it has been assigned – yes [it is forbidden to put coins in], if it has not been assigned – no [it is not forbidden].[100] Here, Abaye's viewpoint is brought in to challenge both Rav Chisda and Rava.

At the beginning of the sugya, it appears that Abaye's viewpoint may prevail. In fact, the first three examples tilt in the direction of Abaye's viewpoint, that designation does matter. This is often the case in the Bavli, which will lead a reader toward one answer only to go the other

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[98] Rashi to טהור מן המדרס B Sanhedrin 48a
[99] B Sanhedrin 48a
[100] Ibid.

direction later. This case works with the notion of cloth being designated for a specific purpose, such that if one were to think that the issue was about the material of the object rather than the abstract designation, the challenge shows that designation is the thrust of this discussion and will be. This is made even clearer by the fact that the next 5 examples deal with objects pertaining to the dead. It is not about a specific kind of object, the sugya seems to be telling us, but an abstract legal concept about designation.

The second challenge also comes to prove Abaye's viewpoint that designation matters. It focuses on a grave that has been dug for someone who is still living. This challenge is particularly important given the epilogue to the sugya and its focus on a place where only after death is the work for the funeral begun. It speaks to the reality of the case at hand. Are there sometimes objects that are made for a person to use upon death before their death? Yes. Are these objects, then, liable to be designated as for the dead person, or must the dead person make use of them before the objects are prevented from giving benefit to another? תא שמע: נפש שבנאו " לשם חי - מותר בהנאה, הוסיף בו דימוס אחד לשם מת - אסור בהנאה! Come and hear: a tomb that was built for a person still living is allowed to give benefit to another. Once a row of stones for a dead person has been added, no one may benefit from it."[101] Initially, this seems to be saying that the since the tomb is not yet fully a tomb until it has all the characteristics of a tomb, it is just a building. If it is just a building, it has yet to be designated. But the second part of the challenge remarks that once there is a sense that this tomb is truly a tomb and has been designated by the stones (and a corpse) no one may benefit from it.

הכא במאי עסקינן - דרמא ביה מת. - אי הכי מאי איריא הוסיף? כי לא " :The challenge is clarified הוסיף נמי! - לא צריכא, אף על גב דפנייה This deals with the case of a corpse who was actually buried there. If this is the case, why include [the rule about] adding [stones], even without, the law

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[101] Ibid

would have been the same! This is necessary to teach what happens if the body is removed."[102]

Here, even if the tomb no longer has the corpse inside it, it is still designated as for the dead and

therefore cannot give benefit. This proves Abaye's point that designation does matter. In this

case, the building acquires its status both from the corpse and the row of stones. Once it has

acquired that status it cannot lose it. At least, until Rafram bar Papa's opinion is sounded. " אמר

רפרם בר פפא אמר רב חסדא: אם היה מכירו - חולצו, ומותר. Rafram bar Papa said in the name of Rav

Chisdah: if he recognizes the additional row and removes them, he is permitted [to benefit from

the tomb]."[103] This does not necessarily go against Abaye, but it does imply that designation is

not permanent, particularly with regards to buildings and other structures. This adds some

nuance and is in keeping with other notions in Talmudic law regarding the status of buildings

and how they can be used.[104]

The third challenge continues with the theme of the grave. It takes the question from the

previous challenge, which posits a tomb for anyone who might die, and makes it more specific,

asking about a tomb that has been designated for a specific person. " תא שמע: החוצב קבר לאביו,

והלך וקברו בקבר אחר - הרי זה לא יקבר בו עולמית! - התם משום כבוד אביו Come and hear: one who digs a

grave for his father and goes and buries him in another grave, this one [the son] can never be

buried in it! This is due to honor for the father." Steinsaltz here notes that the implication here

is that honoring one's father is the reason, not because it would be benefitting from the dead.

Nonetheless, the grave's designation renders it unusable.[105] Abaye's view remains, even if it no

longer has to do with the original reason. This case allows for designation which comes from a

[102] Ibid
[103] Ibid
[104] Cf. B Avodah Zarah.
[105] Steinsaltz to Sanhedrin 48a (Hebrew p 208)

place other than designation for the dead. Interestingly, the challenge uses a grave to tie itself into the sugya's trajectory and theme.

Challenge three continues with the end of the *baraita* and an explanation that serves two interesting purposes. On the one hand, it reinforces the point. On the other hand it separates the honor argument from the death argument in such a way that designation because of honor is elevated above designation because of use by a dead person.

דקתני סיפא; רבן שמעון בן גמליאל אומר: אף החוצב אבנים לאביו, והלך קברו במקום אחר - הרי זה לא יקבר בהן עולמית. אי אמרת בשלמא משום כבוד אביו - שפיר. אלא אי אמרת משום הזמנה - טווי לאריגה מי איכא למאן דאמר?

> The end [of the *baraita*] taught: Rabban Shimon ben Gamliel said: Even if he hewed stones for his father and went and buried him elsewhere, he may not bury himself in them ever. And this is surely because of honoring one's father. But, if you say that this is because of designation, does anyone say this regarding yarn that is spun?[106]

This *baraita* implies that once something is designated for use by the principal of honoring one's father, it cannot be used for another purpose. Therefore, designation matters. On the other hand, the yarn for a death shroud does not acquire such a status. Rashi notes that even Abaye wouldn't hold such.[107] This may be because the death designation on such an incomplete item cannot hold. It may be more practical, having to do with the complexities of materials being earmarked for certain projects. Either way, Abaye's ruling is upheld, that designation matters, especially in cases where the designation is because of honoring one's father.

Challenges four through six will bolster the notion that designation does not matter. Designation along with some kind of action matters, but designation on its own does not change an object's status.

Challenge four begins similarly to challenges two and three, discussing a grave. This is a new grave and the question will center on a stillborn or a miscarriage. " תא שמע: קבר חדש - מותר

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[106] B Sanhedrin 48a
[107] Rashi to טווי לאריגה מי איכא למאן דאמר on B Sanhedrin 48a

בהנאה, הטיל בו נפל - אסור בהנאה. הטיל - אין, לא הטיל - לא! Come and hear: A new grave is fit for benefit. If one placed a stillborn – it is forbidden to benefit. If it has been placed, yes, but if it has not been placed, no!"[108] Rashi comments that this means that even if the grave had been earmarked for the stillborn, it does not acquire designated status.[109] The *Gemara* will challenge this, but the challenge is only to overrule Shimon ben Gamliel who holds that a stillborn cannot take possession of a grave. This example serves to show that it is not merely designation, but action and following through with action that allows an object to acquire status. Within this question is the notion that perhaps one might think that a child would necessarily be different than an adult. But this example comes to teach us that even a person who was never viable in terms of life can designate. But designation is not just by preparation. It requires action.

Challenge five is the lengthiest of the challenges, coming in the middle of the sugya to expound on both sides of the argument and bring in new challenges.[110] In this case, there is a question about funds that were collected for either a general fund for deceased persons or on behalf of a specific person for their burial. Section (a) of the challenge elaborates: " - מותר המתים למתים, מותר המת - ליורשיו extra funds which were collected for the general fund go to future deceased. But, excess funds which were collected on behalf of a particular person go to his heirs."[111] This is because the designation for the funeral is not enough to hold the money to the grave. Section (a) continues with a brief challenge regarding collection during lifetime versus collection during death, but this is rebutted with the same answer.

Section (b) brings in a new dynamic, an alleged conversation between three different rabbinic opinions: the Tanna Kamma, Rabbi Meir and Rabbi Natan. These three will argue the

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[108] B Sanhedrin 48a
[109] Rashi to לא הטיל – לא on B Sanhedrin 48a
[110] For ease, I have divided the challenge into four sections (a-d)
[111] B Sanhedrin 48a

validity of both the Abaye viewpoint and the Rava viewpoint, but first they have to discuss the

specific case at hand. That discussion shows a little bit about how these three personalities

understand designation and how much they are willing to interact with it. First, the Tanna

Kamma makes a point that mimics the rule in section (a). " ותני עלה: כיצד? גבו למתים סתם - זהו מותר

It was taught: How so? If it was collected for the המתים למתים, גבו למת זה - זהו מותר המת ליורשיו

dead in general that is where we rule; the surplus [of a collection] for the dead must be used for

[other] dead, but if it was collected for a particular dead person, that is where we rule, the surplus

[of a collection] for a deceased belongs to his heirs!"[112] The challenge comes through the end of

the *baraita* wherein Rabbi Meir and Rabbi Natan's have differing views as to what to do with the

money. First Rabbi Meir hedges by saying that the money must be held until Elijah comes. " רבי

מאיר אומר: לא יגע בהן עד שיבא אליהו,[113]" Then Rabbi Natan says that the money must be used for a

monument to the deceased or to buy wine to sprinkle on the grave. " רבי נתן אומר: יעשנו דימוס על

קברו, או זילוף לפני מטתו.[114]" Both of these opinions seem to say that the money does not belong

necessarily to anyone. Both Rava and Abaye will try to make these statements fit with their

viewpoint.[115] This shows that the redactor of the sugya wanted the reader to see Abaye and Rava

fighting for their viewpoint (or the viewpoint that has been assigned to them). Their viewpoints

are engaging in a conversation and trying to use Rabbi Meir and Rabbi Natan to prove their

argument.

First Abaye will reconcile the three ideas to his view.

אביי מתרץ לטעמיה: דכולי עלמא הזמנה מילתא היא, תנא קמא סבר: דחזי ליה - תפיס, דלא חזי ליה - לא
תפיס. ורבי מאיר מספקא ליה אי תפיס אי לא תפיס, הלכך לא יגע בהן עד שיבא אליהו. ורבי נתן פשיטא ליה
דודאי   תפיס, הלכך יעשה דימוס על קברו .

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[112] Ibid
[113] Ibid
[114] Ibid
[115] Section (c) of Challenge 5

Abaye reconciles them in accordance with his view; so that all agree that designation is a significant act. Now, the Tanna Kamma holds that the dead takes possession only of as much as he needs, and not of the surplus; Rabbi Meir, however, is doubtful whether he takes possession [of the surplus] or not: therefore it must remain intact until Elijah comes; whereas Rabbi Nathan holds that he certainly takes possession [even of the surplus]; hence it is to be employed for a monument on his grave.[116]

Abaye makes all three arguments fit into his viewpoint by beginning with the assumption that they all agree with him. For him, the Tanna Kamma clearly agrees that designation matters, but will only extend it to the point of necessity. Monies beyond necessity don't make a difference, but the money that is required is designated. Rabbi Meir believes in designation, but is unsure as to whether or not the designation devolves in regards to the surplus, so he decides to wait. Rabbi Natan believes that designation does count and that is why he advises the building of a monument with the surplus monies.

Rava will have to do some mental gymnastics in order to make these three opinions fit with his viewpoint. In order to reconcile the three, he changes paradigms slightly. He understands the three scenarios as if the dead person is concerned with forgiving humiliation of the dead.

ורבא מתרץ לטעמיה: לכולי עלמא הזמנה לאו מילתא היא. תנא קמא סבר: כי בזו ליה - אחולי מחיל זילותיה גבי יורשין. ורבי מאיר מספקא ליה אי מחיל אי לא מחיל, הלכך לא יגע בהן כו'. ורבי נתן פשיטא ליה דלא מחיל, הלכך יעשה דימוס על קברו או זילוף לפני מטתו

And Rava in accordance with his view; so that all agree that designation is not a significant act. Now, the Tanna Kamma maintains: Though they humiliated him, he forgives his humiliation for his heirs' sake, Rabbi Meir, however, is doubtful whether he forgives it or not; therefore it must remain intact etc.; while Rabbi Nathan takes the definite view that he does not forgive it, therefore the surplus must be expended on a monument for his grave or for sprinkling wine before his bier.[117]

For the Tanna Kamma, designation is not applicable, so of course the heirs can take what is left. For Rabbi Meir, there is no way to know whether or not the dead will forgive, so the money will

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[116] Ibid.
[117] Section (d) of Challenge 5

be held until he can be asked. For Rabbi Natan, he holds that the dead will not forgive and so

because of that, the money is not returned and is instead used for a monument and wine. Both

Abaye and Rava's viewpoint must be held by the three tannaitic opinions in order for their

explanations to make sense. The result of this challenge ultimately falls to Rava's side, but that

is primarily due to his discourse being second and our knowledge that it is ultimately his view

that counts as the *halakha*.

Challenge 6, which begins with the תא שמע at the end of page 48a, continues with the

theme of the grave, but brings our sugya back into the realm of cloth as well, at least in a small

part. "תא שמע: היו אביו ואמו מזרקין בו כלים - מצוה על האחרים להצילן Come and hear: if the father and

mother [of a deceased person] throw garments toward [the body of their son] – it is incumbent

upon all others to rescue them."[118] This case is based on excessive grief, and parents who are

attempting to designate the garments as funereal clothes and therefore prohibit them from use for

anyone else.[119] Rashi explains that this case proves that designation does not take effect. If

designation mattered in this case, the clothes would have been rendered forbidden from the

moment the parents had considered throwing them, and the second half of the statement,

regarding onlookers' obligations to save them from a state of forbiddenness, would be moot.[120]

This thereby disproves Abaye's viewpoint. It is not enough for the parents to want the clothes to

be forbidden and to consider them as part of the grave.

There is another salient point here, however. This case also seems to be saying that it is

not enough for the clothes to touch the grave, even with the intention. There are a couple of

possibilities for this ruling. There is the possibility that the *baraita* is being sensitive to extreme

emotion, and noting that designation through distress does not count. There is also the

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[118] Ibid
[119] Rashi to מזרקין בו כלים on Sanhedrin 48a
[120] Rashi to מצוה על האחרים להצילן on Sanhedrin 48a

possibility that the *baraita* is noting that perhaps the garments did not become forbidden in some way. The Gemara will answer these issues in its response to the *baraita,* but it is important to note that action and intention are both necessary elements of designation in this case. Moreover, intention must be made with a clear state of mind.

The Gemara responds to the first point: " התם משום מררייהו. This is done out of their bitterness."[121] Rashi completes the sentence: "From their sorrow they do thus; and this is not considered designation."[122] There is, therefore a sense that the *Gemara* is sensitive to the emotional state of the designator. Designation according to this challenge requires a sound mind. However, there is also the sense that designation through an action may occur even without the intention. The *Gemara* now discusses how it might be that the clothes did not become forbidden through contact with the grave, which, regardless of designation and intention, would render the garment forbidden.

אי הכי היינו דקתני עלה; אמר רבן שמעון בן גמליאל: במה דברים אמורים - שלא נגעו במטה, אבל נגעו במטה - אסורין! - תרגמה עולא במטה הנקברת עמו, דמחלפי בתכריכי המת

> If so, how do we explain what was taught regarding this: Rabbi Simeon ben Gamliel said: When is this [that the garments are not forbidden] so? Only if the garments have not touched the bier, but if they have, they are forbidden! Ulla interpreted this as referring to a bier that is buried with him, [the garments would be forbidden] because they might be confused with the vestments of the dead.[123]

The bier is a new addition to the scenario. There is the question of whether or not the bier is considered a part of the grave. Ulla teaches that when the bier is buried with the body, then it is a part of the grave and therefore garments that touch it are forbidden. However, his point seems to be that the garments are forbidden not because they have been designated as being for the dead and therefore forbidden, but because they may cause one to assume that they are for the

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[121] B. Sanhedrin 48b
[122] Rashi to התם משום מרריהו on B. Sanhedrin 48b
[123] B Sanhedrin 48b

dead. It is a subtle difference, but an important one. The objects have not been designated as forbidden. Rather, they have fallen into a category of objects that resemble those things which are forbidden and which are therefore to be avoided. In this challenge, it is not a verbal designation that renders the garments forbidden or not. It is dependent upon the mindset of the designator and the ultimate resting place of the object. The action of throwing the garments and where they might land takes precedence over the thought.

Through challenge six, the first three cases support Abaye's viewpoint and the next three cases support Rava. Challenges seven and eight move back to Abaye and then back to Rava. They also move away from discussions of death, tombs and burial and return to the opening motif of cloth and its designation for specific purposes. Challenge seven takes the sugya back to challenge one and the bag that had tefillin placed inside of it. However, in this case, the bag is made specifically for this purpose, rather than being repurposed for it.

תא שמע: כיס שעשאו להניח בו תפילין - אסור להניח בו מעות, הניח בו תפילין - יניח בו מעות! – אימא: עשאו והניח בו תפילין - אסור להניח בו מעות, כדרב חסדא

> Come and hear: a bag that was made for the purpose of having tefillin placed inside – it is forbidden to place coins inside of it. [But] if one put tefillin in a bag, one may put coins in! Say this: If it was made to put tefillin in, it is forbidden to put coins in, according to Rav Chisda.[124]

This challenge supports the Abaye viewpoint, which holds that designation is significant. Without designating the bag for tefillin, there is no issue with putting the profane coins in the same bag. If, however, the bag has been designated, the coins cannot be put in. It is a simple case and parallels the case in challenge one almost identically.

Interestingly, Rav Chisda is in both challenge one and challenge seven presenting the same scenario. Yet, the words used are different. In the earlier challenge, the rule attributed to Rav Chisda appears in Aramaic, while in the later challenge it is in Hebrew. It is possible that

[124] Ibid

Rav Chisda's viewpoint regarding this specific case was well known and then cited by two

different *baraitot* in two different yet synonymous phrasings. This may also be a case where,

much like Abaye and Rava, the specific case has been made to be more than originally intended.

Just as the specific dispute over the shroud for the dead person becomes a gateway to the dispute

over intention and designation, Rav Chisda's specific case regarding the bag for tefillin and coins

may be a specific case which has been legalistically moved from the specific to the abstract in

order to render proof and support for one viewpoint. At its base level, the ruling about the

shroud and the ruling about the bag for tefillin have little to do with each other. The subject

matter and language used are different. It is only when the abstract notions of the law—as

understood, elaborated and explained via the Stammaitic narrative and construction—are

extrapolated that these two disparate cases become analogous.

The final challenge tilts toward Rava. It may be placed to refute the previous challenge

and render the sugya balanced. This case is also about creating something out of fabric.

Interestingly, the language used in this challenge seems to conflate the specific and the abstract

notions of the legalities of designation that have heretofore only come together through the

weaving of tannaitic material and Stammaitic. This case uses an object for a specific purpose,

but quickly moves to the language of abstract conceptualization. The concern over the specific

item is not its designation for a specific item, but for a specific category. The challenge uses the

terms holy and mundane in the same way that Rav Chisda's opinion uses tefillin and coins. This

may be an elaboration of that which came immediately before it, given that the case in challenge

seven is very similar to the case in challenge eight. This case comes to teach that designation,

even for a category, is not significant. This is an important distinction because all prior

challenges have had to move from specific to abstract. Here, the language of the case begins in the abstract concept of holy and mundane.

The challenge begins much like those prior: " תא שמע: אמר לאומן עשה לי תיק של ספר או נרתיק של תפילין Come and hear: If one says to an artisan, 'make me a bag for a book [of the Law] or a satchel for tefillin'."[125] But then, it takes a turn for the legalistic rather than the casuistic. " עד שלא נשתמש בהן קודש - מותר להשתמש בהן חול, נשתמש בהן קודש - אסור להשתמש בהן חול Until it has been used for a holy thing, it is permitted to use for a mundane thing. If it has been used for the holy, it is forbidden to use it for the mundane."[126] Rather than make the case, as Rav Chisda does twice using specific items which are either holy or mundane and then extrapolating from that case the concepts of holy and profane, this case moves to the conceptual immediately. Since the use of the container is what will determine whether or not a mundane object may be placed within it, designation prior to use does not matter.

The sugya now takes an interesting turn. As opposed to another challenge or a ruling, a bit of historical context is given to the dispute regarding designation. This sense of the term, however, is somewhat different than what came before it. As Moscovitz notes: "The issue [in this section] is whether intention/designation is *necessary,* in contrast to the issue addressed in the rest of the sugya—whether designation is effective, that is whether it confers the same status as use."[127] In this case of a dispute between Tannaim, according to Moscovitz, the sense of the law is different than the sense of the law in the eight challenges and the original case that precede it. "תנאי היא, דתניא This is a dispute of the Tannaim, as it was taught:"[128] The redactor of this sugya uses a deft hand to insert a tannaitic dispute into an Amoraic dispute which both become

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[125] Ibid
[126] Ibid
[127] Moscovitz, p 245
[128] B Sanhedrin 48b

part of a postamoraic understanding of designation and its effects. Taking an Amoraic dispute and relating it to a previous Tannaitic dispute is typical for the Bavli.

This dispute begins with appropriate materials the fabrication of tefillin. " ציפן זהב או שטלה עליהן עור של בהמה טמאה - פסולות, עור בהמה טהורה - כשירות, אף על פי שלא עיבדן לשמן If he coated them in gold or overlaid them with the hide of an unkosher animal, they are unfit. If the hide is from a kosher animal, even if it was not [expressly] prepared for that purpose."[129] The view of the Tanna Kamma is that designation is not necessary. This is a different understanding than designation not being effective. Designation here could be effective, but it doesn't make a difference. Whether or not the hide has been designated for tefillin is not the issue.

The second opinion comes from Rabban Shimon ben Gamliel who disagrees with the Tanna Kamma. "רבן שמעון בן גמליאל אומר: אף עור בהמה טהורה פסולות, עד שיעבדו לשמן Rabban Shimon ben Gamliel said: any hide of a kosher animal is unfit [for tefillin] unless it has been prepared [expressly] for that purpose."[130] Rabban Shimon ben Gamliel teaches the opposite of the Tanna Kamma. He believes that designating the hide is necessary in order to render tefillin which are fit for use. There is a difference between the necessity of the designation and the effectiveness of the designation. Gamliel believes that designation is necessary, and therefore effective. It matters to him. The Tanna Kamma says that as long as the methods are correct, the designation does not make a difference in rendering the tefillin fit or unfit. The sugya, in presenting this case, shows how the legalistic nature of the dispute goes back to tannaitic times. This, as is much of the sugya, is a literary vehicle constructed to give credence to a specific Postamoraic viewpoint, namely that designation is a category of law and it is not significant when coupled with use to give an object status.

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[129] Ibid
[130] Ibid

This sugya is a parade example of a postamoraic, Stammaitic literary composition. From beginning to end, the earlier layers of discussion and debate serve as the basis for the discourse. The Stammaitic layer reads higher order concepts of a more abstract nature into the specific cases that of the Amoraim and the Tannaim which are cited. The earlier sources only serve to further the later assertion about the notions of designation through intention and designation through use. Rava, Abaye, Rav Chisda, Rabban Shimon ben Gamliel, Rabbi Meir, Rabbi Natan and at least two Tanna Kamma opinions all present specific cases which are immediately used to advance abstract legal notions. That there is a framing case, a thematic connection between the challenges and a clear connection drawn between many different layers also shows how the Stam draws upon earlier case law in order to derive a theory about the practice of designation. Beginning and ending with the same case of the shroud for the dead frames this dispute, but the challenges throughout define it

Conclusion

The three Bavli sugyot presented in this work deal with disparate methods of designation and objects to be designated. On the level of subject matter, there is little they share. But they all move from their specific subject to the question of intention referred to as *kavannah, chazakah,* and *hazmanah* almost interchangeably. These sugyot are representative of the methods used by the late Stammaitic authors and editors. Though their motives are unclear, the legal discourse is changed by their hands. The Tannaitic and Amoraic focus on specific case scenarios is broadened to a new focus on abstract legal conceptualization. Partial declaration of betrothal, immersion of a priest into a ritual bath, and weaving a shroud for a dead person therefore become the point of departure for a discussion about the role of intention in designating an object's status. These three sugyot show how the postamoraic authors weave Tannaitic and Amoraic discourse and opinion into abstract legal discussions.

These three sugyot also come to somewhat different conclusions. In Nedarim, there is no answer given about the role of the *yad*, but we did learn in Kiddushin that that an explicit *yad*, which is valid, requires that there be no ambiguity. Ambiguity is often determined by a lack of clear intention. In Chagigah, questions of intention remain bound to the ritual act. In Sanhedrin, the law rests with Rava, that intention does not have an effect on the status of an object, though half of the examples say otherwise. In all three sugyot, there is a sense that designation requires both action, whether physical or verbal, and thought. There can be no ambiguity to the speech, and a completed ritual act has no opportunity to be reconsidered in light of a new intention. The three discussions seem to want to eschew ambiguity, yet leave little actually answered after their long discourses.

Further examination into the role of Ravina would be beneficial. As a sage who seems to be used as an early proponent of moving from the concrete to the abstract, Ravina appears in two of these sugyot, and is known to serve a similar function in others.

Examination of these three sugyot also begins to give a sense of how the postamoraic sages understood the relationship between the mind and the body. The postamoraic sages spent time trying to determine how the mind worked by examining actions and attributing both consequences and intention to the actions. They also spent time refining their law code to reflect that. The mind is a critical part in ritual living and in following the customs of the tradition. Speech, intention and action work in tandem for the postamoraic sages, at least as evidenced by these sugyot. The Stammaim spend their time developing abstract notions of law from earlier case-specific scenarios.

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Appendix

Babylonian Talmud, Tractate Nedarim, 6b-7a

<u>תלמוד בבלי מסכת נדרים דף ו עמוד ב</u>

בעי רב פפא: יש יד לקידושין או לא?
- היכי דמי?
  ○ אילימא דאמר לה לאשה הרי את מקודשת לי, ואמר לחבירתה ואת נמי,
    ▪ פשיטא, היינו קידושין עצמן!
  ○ אלא כגון דאמר לה לאשה הרי את מקודשת לי, ואמר לה לחבירתה ואת,
    ▪ מי אמרינן ואת נמי אמר לה לחבירתה,
    ▪ ותפסי בה קידושין לחבירתה, או דלמא ואת חזאי אמר לה לחבירתה, ולא תפסי בה קידושין בחבירתה?
  ○ ומי מיבעי ליה לרב פפא?
    ▪ והא מדאמר ליה רב פפא לאביי: מי סבר שמואל ידים שאין מוכיחות הויין ידים?
      • מכלל דסבירא ליה לרב פפא דיש יד לקידושין!
      • חדא מגו מאי דסבירא ליה לשמואל אמר ליה לאביי.

בעי רב פפא: יש יד לפאה, או אין יד לפאה?
- היכי דמי?
  ○ אילימא דאמר הדין אוגיא ליהוי פאה והדין נמי, ההיא פיאה מעלייתא היא!
- כי קא מיבעיא ליה –
  ○ כגון דאמר והדין ולא אמר נמי,
- מאי?
  ○ מכלל דכי אמר שדה כולה תיהוי פאה הויא פאה!
    ▪ אין,
    ▪ והתניא: מנין שאם רוצה לעשות כל שדהו פאה עושה?
    ▪ ת"ל: +ויקרא יט+ פאת שדך;
  ○ מי אמרינן כיון דאיתקש לקרבנות, מה קרבנות יש להם יד אף פאה יש לה יד, או דלמא כי איתקש - לבל תאחר הוא דאיתקש?
    ▪ והיכא איתקש?
      • דתניא:

<u>תלמוד בבלי מסכת נדרים דף ז עמוד א</u>

- +דברים כ"ג+ מעמך - זה לקט שכחה ופאה.
יש יד לצדקה, או אין יד לצדקה?
- היכי דמי?
  ○ אילימא דאמר הדין זוזא לצדקה והדין נמי, ההוא צדקה עצמה היא!
    ▪ אלא כגון דאמר הדין ולא אמר נמי,
- מאי?
  ○ הדין נמי צדקה קאמר, או דלמא [מאי] והדין (נמי) –
    ▪ לנפקותא בעלמא קאמר, ודבורא הוא דלא אסקיה;
- מי אמרינן כיון דאיתקש לקרבנות,
  ○ דכתיב +דברים כ"ג+ בפיך –

- זו צדקה,
    - מה קרבנות יש להן יד אף צדקה יש לה יד,
  - או דלמא לבל תאחר הוא דאיתקש?

יש יד להפקר, או דלמא אין יד להפקר?
  - היינו צדקה!
    ○ אם תמצא לומר קאמר, אם תמצא לומר יש יד לצדקה, דאין היקש למחצה, הפקר מי אמרינן היינו צדקה,
    ○ או דלמא שאני צדקה,
      - דצדקה לא חזיא אלא לעניים, אבל הפקר בין לעניים בין לעשירים?

בעי רבינא: יש יד לבית הכסא או לא?
  - היכי דמי?
    ○ אילימא דאמר הדין ביתא ליהוי בית הכסא והדין נמי, ההוא בית הכסא נמי הוה!
    ○ אלא כגון דאמר והדין ולא אמר נמי,
  - מאי? הדין דאמר —
    ○ והדין נמי בית הכסא, או דלמא מאי והדין - לתשמישא בעלמא קאמר?
      - מכלל דפשיטא ליה לרבינא דיש זימון לבית הכסא,
      - והא מיבעיא ליה לרבינא:
        • הזמינו לבית הכסא, מהו?
        • הזמינו לבית המרחץ, מהו?
        • זימון מועיל או אין זימון מועיל!
      - רבינא, חדא מגו חדא קמיבעיא ליה: זימון מועיל או אין זימון מועיל?
        • את"ל יש זימון, יש יד או אין יד?
        • תיבעי ליה.

Babylonian Talmud, Tractate Kiddushin 5b

<u>תלמוד בבלי מסכת קידושין דף ה עמוד ב</u>

אמר שמואל: בקידושין, נתן לה כסף ושוה כסף, ואמר לה הרי את מקודשת, הרי את מאורסת הרי את)לי(לאינתו - הרי זו מקודשת, הריני אישך, הריני בעליך, הריני ארוסיך - אין כאן בית מיחוש;

{וכן בגירושין, נתן לה ואמר לה הרי את משולחת, הרי את מגורשת, הרי את מותרת לכל אדם - הרי זו מגורשת, איני אישך, איני בעליך, איני ארוסיך - אין כאן בית מיחוש. }

אמר ליה רב פפא לאביי: למימרא, דסבר שמואל שאין מוכיחות הויין ידים, והתנן: האומר אהא - הרי זה נזיר; והוינן בה, ודילמא אהא בתענית קאמר!
ואמר שמואל: והוא שהיה נזיר עובר לפניו;
טעמא דנזיר עובר לפניו, הא לאו הכי לא! הכא במאי עסקינן - דאמר לי.
אי הכי, מאי קמ"ל?

Babylonian Talmud, Tractate Chagigah 18b-19a

<u>תלמוד בבלי מסכת חגיגה דף יח עמוד ב</u>

משנה. נוטלין לידים לחולין ולמעשר ולתרומה. ולקודש - מטבילין, ולחטאת, אם נטמאו ידיו - נטמא גופו. טבל לחולין - הוחזק לחולין, אסור למעשר. טבל למעשר - הוחזק למעשר, אסור לתרומה. טבל לתרומה - הוחזק לתרומה, אסור לקודש. טבל לקודש - הוחזק לקודש, אסור לחטאת. טבל לחמור - מותר לקל, טבל ולא הוחזק - כאילו לא טבל. בגדי עם הארץ מדרס לפרושין, בגדי פרושין מדרס לאוכלי תרומה, בגדי אוכלי תרומה מדרס לקודש, בגדי קודש מדרס לחטאת. יוסף בן יועזר היה חסיד שבכהונה, והיתה מטפחתו מדרס לקודש. יוחנן בן גודגדא היה אוכל על טהרת הקודש כל ימיו והיתה מטפחתו מדרס לחטאת.

גמרא. חולין ומעשר מי בעו נטילת ידים?
ורמינהי:
-   התרומה והביכורים - חייבין עליהן מיתה, וחומש, ואסור לזרים, והן נכסי כהן, ועולין באחד ומאה, וטעונין נטילת ידים, והערב שמש,
-   הרי אלו בתרומה וביכורים - מה שאין כן במעשר, וכל שכן בחולין.

קשיא מעשר אמעשר, קשיא חולין אחולין!
-   בשלמא מעשר אמעשר לא קשיא:
    ○ הא - רבי מאיר,
    ○ והא - רבנן.
-   דתנן:
    ○ כל הטעון ביאת מים מדברי סופרים מטמא את הקודש, ופוסל את התרומה, ומותר לחולין ולמעשר, דברי רבי מאיר.
    ○ וחכמים אוסרים במעשר.
אלא חולין אחולין קשיא!
-   לא קשיא;
    ○ כאן - באכילה.
    ○ כאן - בנגיעה.
מתקיף לה רב שימי בר אשי:
-   עד כאן לא פליגי רבנן עליה דרבי מאיר אלא באכילה דמעשר,
-   אבל בנגיעה דמעשר ובאכילה דחולין - לא פליגי!
אלא: אידי ואידי באכילה, ולא קשיא:
-   כאן - באכילה דנהמא,
-   כאן - באכילה דפירי. דאמר רב נחמן: כל הנוטל ידיו לפירות - הרי זה מגסי הרוח.

תנו רבנן: הנוטל ידיו, נתכוון - ידיו טהורות, לא נתכוון - ידיו טמאות. וכן המטביל ידיו, נתכוון - ידיו טהורות, לא נתכוון - ידיו טמאות. והתניא: בין נתכוון בין לא נתכוון - ידיו טהורות! - אמר רב נחמן: לא קשיא;
-   כאן - לחולין,

<u>תלמוד בבלי מסכת חגיגה דף יט עמוד א</u>

-   כאן - למעשר.
וממנא תימרא דחולין לא בעו כוונה? –
דתנן: גל שנתלש ובו ארבעים סאה, ונפל על האדם ועל הכלים - טהורין.
-   קתני אדם דומיא דכלים, מה כלים דלא מכווני - אף אדם דלא מכוין.
וממאי?

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- דלמא ביושב ומצפה ומתי יתלש הגל עסקינן,
- וכלים דומיא דאדם,
  - מה אדם דבר כוונה – אף כלים דמכוין להו?

וכי תימא:
- ביושב ומצפה מאי למימרא –

סלקא דעתך אמינא:
- ליגזור דלמא אתי למיטבל בחרדלית של גשמים,
- אי נמי נגזור ראשין אטו כיפין,
- קא משמע לן דלא גזרינן. –

ומנא תימרא דלא מטבילין בכיפין?
- דתניא:
  - מטבילין בראשין ואין מטבילין בכיפין, לפי שאין מטבילין באויר.
- אלא מהא, דתנן:
  - פירות שנפלו לתוך אמת המים, ופשט מי שידיו טמאות ונטלן - ידיו טהורות, ופירות אינן בכי יותן. ואם בשביל שיודחו ידיו - ידיו טהורות, והפירות הרי הן בכי יותן.

איתיביה רבה לרב נחמן:
- הטובל לחולין והוחזק לחולין - אסור למעשר,
  - הוחזק - אין,
  - לא הוחזק - לא! –

הכי קאמר:
- אף על פי שהוחזק לחולין - אסור למעשר.
- איתיביה: טבל ולא הוחזק - כאילו לא טבל.
- מאי לאו - כאילו לא טבל כלל! –
  - לא, כאילו לא טבל למעשר, אבל טבל לחולין.
- הוא סבר דחי קא מדחי ליה, נפק, דק ואשכח.
  - דתניא: טבל ולא הוחזק - אסור למעשר ומותר לחולין.

אמר רבי אלעזר: טבל ועלה - מחזיק עצמו לכל מה שירצה.
- מיתיבי: עודהו רגלו אחת במים, הוחזק לדבר קל - מחזיק עצמו לדבר חמור, עלה - שוב אינו מחזיק.
- מאי לאו - אינו מחזיק כלל? –
  - לא,
    - עודהו - אף על פי שהוחזק - מחזיק,
    - עלה, - אם לא הוחזק - מחזיק,
    - ואם הוחזק - אינו מחזיק.

Babylonian Talmud, Tractate Chullin 31a-b

<u>תלמוד בבלי מסכת חולין דף לא עמוד א</u>

וחולין לא בעי כוונה.
ומנא תימרא?
דתנן: גל שנתלש ובו ארבעים סאה, ונפל על האדם ועל הכלים - טהורין;
- מאי לאו אדם דומיא דכלים, מה כלים דלא מיכווני, אף אדם נמי לא בעי כוונה, ממאי?
דלמא ביושב ומצפה עסקינן אימתי יתלש הגל,

<u>תלמוד בבלי מסכת חולין דף לא עמוד ב</u>

וכלים דומיא דאדם, מה אדם דבעינן כוונה, אף כלים נמי דקא מכוין להו אדם!

וכי תימא, ביושב ומצפה מאי למימרא?
מהו דתימא: ליגזר משום חרדלית של גשמים, אי נמי ליגזר ראשין אטו כיפין, קמ"ל דלא גזרינן.

ומנא תימרא דלא מטבילינן בכיפין?
דתנן: מטבילין בראשין ואין מטבילין בכיפין, שאין מטבילין באויר.

אלא חולין דלא בעי כוונה מיהא מנלן?
דתנן: פירות שנפלו לתוך אמת המים ופשט מי שידיו טמאות ונטלן - ידיו טהורות ופירות אינן בכי יותן, ואם בשביל שיודחו - ידיו טהורות ופירות בכי יותן.

איתיביה רבא לרב נחמן: טבל לחולין והוחזק לחולין - אסור למעשר;
הוחזק אין,
לא הוחזק לא!
הכי קאמר: אע"פ שהוחזק לחולין - אסור למעשר.

איתיביה: טבל ולא הוחזק - כאילו לא טבל;
מאי לאו כאילו לא טבל כלל!
לא, כאילו לא טבל למעשר אבל טבל לחולין.
הוא סבר דיחויי קא מדחי ליה, נפק דק ואשכח,
דתניא: טבל ולא הוחזק - מותר לחולין ואסור למעשר

תלמוד בבלי מסכת סנהדרין דף מז עמוד ב

(Prologue)

איתמר, האורג בגד למת, אביי אמר: אסור, ורבא אמר: מותר.

אביי אמר: אסור, הזמנה מלתא היא. ורבא אמר: מותר, הזמנה לאו מילתא היא.
מאי טעמא

דאביי - גמר +במדבר כ'+ שם +דברים כ"א+ שם מעגלה ערופה. מה עגלה ערופה - בהזמנה מיתסרא, האי נמי - בהזמנה מיתסרא.

ורבא גמר +דברים י"ב+ שם שם מעבודה זרה, מה עבודה זרה בהזמנה לא מיתסרא, אף הכא נמי - בהזמנה לא מיתסרא.

ורבא מאי טעמא לא גמר מעגלה ערופה? –

אמר לך

תלמוד בבלי מסכת סנהדרין דף מח עמוד א

משמשין ממשמשין גמרינן, לאפוקי עגלה ערופה דהיא גופה קדושה.
ואביי מאי טעמא לא גמר מעבודה זרה?
אמר לך: מידי דאורחיה ממידי דאורחיה - גמרינן, לאפוקי עבודה זרה דלאו אורחא.

(סימן: כפ"ה נפשי"ה דחציב"א נכיס"א דאומנ"א).

(Challenge 1)

מיתיבי: כפה שהוא טמא מדרס ונתנתו לספר - טהור מן המדרס, אבל טמא מגע מדרס +מסורת הש"ס: טמא מת+. –
אימא: נתנתו וכרכתו.
- למה לי נתנתו וכרכתו?
- כדרב חסדא. דאמר רב חסדא: האי סודרא דאזמניה למיצר ביה תפילין וצר ביה תפילין - אסור למיצר ביה פשיטי.
אזמניה ולא צר ביה, צר ביה ולא אזמניה - שרי למיצר ביה פשיטי.

ולאביי, דאמר הזמנה מילתא היא, אזמניה אף על גב דלא צר ביה. צר ביה, אי אזמניה - אין, אי לא אזמניה - לא.

(Challenge 2)

תא שמע: נפש שבנאו לשם חי - מותר בהנאה, הוסיף בו דימוס אחד לשם מת - אסור בהנאה!
- הכא במאי עסקינן - דרמא ביה מת. –
אי הכי מאי איריא הוסיף? כי לא הוסיף נמי!
- לא צריכא, אף על גב דפנייה.

אמר רפרם בר פפא אמר רב חסדא: אם היה מכירו - חולצו, ומותר.

(Challenge 3)

תא שמע: החוצב קבר לאביו, והלך וקברו בקבר אחר - הרי זה לא יקבר בו עולמית!
- התם משום כבוד אביו.
הכי נמי מסתברא, דקתני סיפא; רבן שמעון בן גמליאל אומר: אף החוצב אבנים לאביו, והלך קברו במקום אחר - הרי זה לא יקבר בהן עולמית. אי אמרת בשלמא משום כבוד אביו - שפיר. אלא אי אמרת משום הזמנה - טווי לאריגה מי איכא למאן דאמר?

(Challenge 4)

תא שמע: קבר חדש - מותר בהנאה, הטיל בו נפל - אסור בהנאה.

הטיל - אין, לא הטיל - לא!

- הוא הדין דאף על גב דלא הטיל, ולאפוקי מדרבן שמעון בן גמליאל דאמר: אין לנפלים תפיסת הקבר, קא משמע לן.

(Challenge 5)
Section a

תא שמע: מותר המתים - למתים, מותר המת - ליורשיו.

- הכא במאי עסקינן - שגבו מחיים. - הא לא תני הכי, דתנן: מותר המתים - למתים, מותר המת - ליורשיו.

Section b

ותני עלה: כיצד? גבו למתים סתם - זהו מותר המתים למתים, גבו למת זה - זהו מותר המת ליורשיו!

- וליטעמיך אימא סיפא,

רבי מאיר אומר: לא יגע בהן עד שיבא אליהו,

רבי נתן אומר: יעשנו דימוס על קברו, או זילוף לפני מטתו.

Section c

אלא, אביי מתרץ לטעמיה, ורבא מתרץ לטעמיה,

אביי מתרץ לטעמיה: דכולי עלמא הזמנה מילתא היא,

תנא קמא סבר: דחזי ליה - תפיס, דלא חזי ליה - לא תפיס.

ורבי מאיר מספקא ליה אי תפיס אי לא תפיס, הלכך לא יגע בהן עד שיבא אליהו.

ורבי נתן פשיטא ליה דודאי תפיס, הלכך יעשה דימוס על קברו.

Section d

ורבא מתרץ לטעמיה: לכולי עלמא הזמנה לאו מילתא היא. תנא קמא סבר: כי בזו ליה - אחולי מחיל זילותיה גבי יורשין. ורבי מאיר מספקא ליה אי מחיל אי לא מחיל, הלכך לא יגע בהן כו'. ורבי נתן פשיטא ליה דלא מחיל, הלכך יעשה דימוס על קברו או זילוף לפני מטתו. –

(Challenge 6)

תא שמע: היו אביו ואמו מזרקין בו כלים - מצוה על האחרים להצילן!

<u>תלמוד בבלי מסכת סנהדרין דף מח עמוד ב</u>

התם משום מרריייהו. - אי הכי היינו דקתני עלה; אמר רבן שמעון בן גמליאל: במה דברים אמורים - שלא נגעו במטה, אבל נגעו במטה - אסורין! - תרגמה עולא במטה הנקברת עמו, דמחלפי בתכריכי המת.

(Challenge 7)

תא שמע: כיס שעשאו להניח בו תפילין - אסור להניח בו מעות, הניח בו תפילין - יניח בו מעות! – אימא: עשאו והניח בו תפילין - אסור להניח בו מעות, כדרב חסדא.

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(Challenge 8)

תא שמע: אמר לאומן עשה לי תיק של ספר או נרתיק של תפילין, עד שלא נשתמש בהן קודש - מותר להשתמש בהן
חול, נשתמש בהן קודש - אסור להשתמש בהן חול!

(Tannaitic Dispute)

- תנאי היא, דתניא: ציפן זהב או שטלה עליהן עור של בהמה טמאה - פסולות, עור בהמה טהורה - כשירות, אף על פי
שלא עיבדן לשמן. רבן שמעון בן גמליאל אומר: אף עור בהמה טהורה פסולות, עד שיעבדו לשמן.

(Epilogue)

אמר ליה רבינא לרבא: מי איכא דוכתא דרמו ביה מת וארגי בגד למת? –
אמר ליה: אין, כגון שכבי דהרפניא.

דרש מרימר: הלכתא כוותיה דאביי, ורבנן אמרי: הלכתא כוותיה דרבא.
והלכתא כוותיה דרבא.