



You Don't Say! – Part 2

This is a continuation of last week's discussion regarding someone who is unable to speak reciting Brachos through Hirhur (contemplating the words of the Bracha) and cases of Ones. This week's essay will focus on Birchos haNehenin.

The Gemara explains (*Brachos* 35a) that the obligation to recite *Birchos haNehenin* is a "*Sevara*" (logical assumption): "*It is forbidden to benefit from this world without a Bracha*". Rashi explains: "*Since he derived pleasure he must thank the One who created them (the foods)*".

The Gemara continues:

The Rabbis taught: It is forbidden for a person to derive pleasure from this world without a Bracha. Anyone who derives pleasure from this world without a Bracha has committed Me'ila¹... R' Yehuda said in the name of Shmuel: Anybody who derives pleasure from this world without a Bracha is as if he benefited from Kodshei Shamayim, as the Posuk states, "To Hashem is the world and all that is in it" (Tehillim 24:1). R' Levi raised the following contradiction: It is stated, "To Hashem is the world and all that is in it" but it is also stated, "The heavens are the heavens of Hashem but He gave the earth to human beings"? [He answered:] It is not difficult. This [Posuk] refers to before the Bracha and this [Posuk] refers to after the Bracha. R' Chanina bar Papa said: Anybody who derives pleasure from this world without a Bracha is as if he stole from Hashem and Kneses Yisrael.

The Gemara defines the prohibition to derive pleasure from this world without a Bracha in two ways, as an *Isur* and as *Me'ila*. The Gemara then elaborates on the nature of the "theft". Before the *Bracha*, the food belongs to Hashem, and following the *Bracha* it enters the domain of man. Failing to recite a *Bracha* and then deriving pleasure is thus a form of theft. In summary, the obligation to recite a *Bracha* is based firstly on a *Sevara* – "*Since he derived pleasure he must thank the One who created them (the foods)*" – and secondly on the fact that it would be *Gezeila* to fail to do so. Are these two reasons connected or dependent on each other?

This brings the point raised at the conclusion of the previous essay into sharper focus. In a situation of *Ones*, we can certainly absolve a person of the obligation to recite a Bracha, in other words, the obligation to "*thank the One who created them*". It is not his fault that he cannot recite a Bracha; there is no reason to prevent him from eating to boot! However, does an *Ones* permit him to commit "*Gezeila*"?

¹ Improper mundane use of something that is *Hekdesh*, here used to refer to a form of *Gezeila* (theft).

This is discussed by many of the *Acharonim* as we will see below. However, we will first raise an interesting inference from Rashi's comments that may change the picture.

At the start of the *Sugya*, Rashi explains the *Sevara* of *Birchos haNehenin* as being an obligation to "*thank the One who created them (the foods)*". Later, when the Gemara introduces the notion of *Gezeila* Rashi explains it in a novel way. Rather than state that a person who fails to recite a Bracha "is as if he stole *the food* from Hashem", Rashi explains, "he has stolen from Hashem – *His Bracha*"!

The *Maharsha* (*ad. loc.*) asks why Rashi interprets the Gemara in this fashion. The Gemara there clearly states that before the Bracha, the food belongs to Hashem and only enters man's domain afterward. The more obvious and simpler explanation of the subsequent statement that a person who fails to recite a Bracha is "stealing" would have been that he is stealing *the food* from Hashem, not the Bracha!

Perhaps Rashi understands that although the food belongs to Hashem before a Bracha, it is designated for man's use and benefit. He is considered a "*Ba'al Chov*" – he owes something before he may benefit from it, namely the Bracha. By failing to recite a Bracha, he has not stolen the food, as it was set aside for his use, but he has failed to pay his "*Chov*". He is considered to have stolen the Bracha, not the food.

If so, we may postulate that in a situation of *Ones* a person does not commit "theft" at all. Hashem does not impose a *Chov* on a person who is unable to pay it; He does not "expect" a Bracha in these circumstances.

The *Pnei Yehoshua* famously raised the following question on the *Sugya* cited above: Since the obligation of a Bracha is derived from a *Sevara*, why isn't it a *Mitzva d'Oraisa*? *Chaza"l* state that "*a Sevara is a d'Oraisa*"², thus a *Mitzva* derived from a *Sevara* should be a *Mitzva d'Oraisa* even though it is not stated explicitly in the Torah. This would have enormous ramifications for of the most famous rules in *Hilchos Brachos*, "*Safek Brachos l'Hakel – We are lenient in any doubt in Brachos*". If *Brachos* were a *Mitzva d'Oraisa*, this would certainly not be the case since "*Safek d'Oraisa l'Chumra – We are stringent in any doubt in d'Oraisa matters*".

The *Pnei Yehoshua* answers that the principle of "*Safek d'Oraisa l'Chumra*" cannot be applied in this case because reciting a *Bracha Levatala* is an *Isur d'Oraisa*. Thus, if a person is in doubt as to whether to recite a Bracha, he cannot simply be "*Machmir*" because he is being *Meikil* about the possibility of *Bracha Levatala*. (This assertion is extremely important in *Hilchos Brachos*, however, further discussion is beyond the scope of this essay.)

² [Editor's note: The *Pnei Yehoshua* bases this assertion on the question that the Gemara asks in several places (*Kesubos* 22a, *Bava Kama* 46b, *Niddah* 25a), "*Lama Li Kra? Sevara Hu!*"]

Many *Acharonim* maintain that the *Pnei Yehoshua's* question is based on a false premise. They argue that the principle of "*Safek Brachos l'Hakel*" does not apply to *Birchos haNehenin* because "*it is forbidden to derive pleasure from this world without a Bracha*" and one who does so has committed *Me'ila*. (The basic argument is made by the *Maharsha* to *Pesachim* 102a).

Some say that this position is also held by *Tosfos*. The Gemara in *Brachos* (12a) discusses a case in which it is doubtful whether one should recite a Bracha or not. *Tosfos* rule (*ad. loc. s.v. "Lo"*): "*As a stringency, he needs to recite the Bracha again*". The *Magen Avraham* wonders (209:3) why *Tosfos* do not instead invoke the principle of "*Safek Brachos l'Hakel*". R' Akiva Eiger answers that *Tosfos* hold that this principle does not apply to *Birchos haNehenin*, as explained above.

R' Akiva Eiger also dismisses the *Pnei Yehoshua's* argument that if a person recites a Bracha in a case of *Safek* he risks uttering a *Bracha Levatala*: "*There is no concern of Bracha Levatala, for if he does not recite a Bracha it will be forbidden for him to drink!*" In other words, since the person cannot drink due to the *Safek* (for it is forbidden to derive pleasure from the world without a Bracha), the Bracha cannot be considered "*Levatala*" since it permits him to drink.

The above discussion clearly portrays the two sides of our question. The *Pnei Yehoshua* apparently only takes the obligation of *Birchas haNehenin* into account, therefore, we say *Safek Brachos l'Hakel* in a case of doubt. (Though, as explained above, since he holds that Brachos should constitute a *Mitzva d'Oraisa*, he asks that we should instead invoke the principle of "*Safek d'Oraisa l'Chumra*." According to those who hold – which is the position adopted in Halacha – that *Birchos haNehenin* are only a *Mitzva d'Rabbanan*, it is obvious that in a case of *Safek* a person may eat without a Bracha.)

On the other side, the *Maharsha* (and many others³) hold that *Birchos haNehenin* are not only a *Mitzva* (like *Birchos haMitzvos*, for example) but also the means of lifting the *Isur* to derive pleasure from the world before a Bracha. Therefore, the principle of *Safek Brachos l'Hakel* does not apply because one cannot waive the *Isur* in a case of doubt.

The *Shulchan Aruch* rules (*O.C.* 209) that *Safek Brachos l'Hakel* applies to *Birchos haNehenin*. It follows that in the case of *Ones*, a person would be permitted to eat without a Bracha.

All of the above is predicated on the assumption that the obligation of *Birchos haNehenin* and the *Isur* to benefit from this world without a Bracha are independent of each other. However, as we alluded to above, the two may be connected. The *Gezeila* or *Me'ila* is the very fact that the person derives pleasure from the world without fulfilling

³ We should point out that the aforementioned *Magen Avraham* disagrees with the *Maharsha* and offers a different interpretation of the comments of *Tosfos* cited above.

his obligation to recite a Bracha. If so, in the case of *Ones* where a person's obligation is waived there would also be no *Isur*.

Rav Shmuel Vosner zt"l (*Shevet haLevi* 6:23) makes a similar argument. He discusses a patient in a hospital who was unable to recite a Bracha. The *Sho'el* made the above argument that the state of *Ones* could only waive the obligation to recite a Bracha but could not lift the *Isur* of deriving pleasure from the world without a Bracha.

Rav Vosner replied that the *Isur* is indeed not lifted in the case of *Ones*, yet it is still permissible for the patient to eat without a Bracha. The Mishna explicitly permits a *Ba'al Keri* to eat due to his state of *Ones* (see last week's essay), and the same would apply to other examples of *Ones*. It is highly unlikely that the Mishna only permitted it in a case of *Pikuach Nefesh*. **Moreover, we may argue that since the Chachamim did not insist upon fulfilling the Mitzva of Birchos haNehenin in a case of Ones, they would also not have considered there to be an Isur in these circumstances.**

Rav Vosner then notes that this conclusion does not appear to fit with the *Mishna Berura's* ruling (*Biur Halacha* 62, discussed in the previous essay) that it is forbidden to drink in a *Beis haMerchatz*. Surely, since the person is an *Ones* he should be absolved of the obligation of *Birchos haNehenin* and should be able to drink without a Bracha.⁴

Rav Vosner answers that the *Mishna Berura's* main argument is that the person is able to leave the *Beis haMerchatz* to drink. He explains:

We need to add a little to his words. Certainly, the small amount of time it takes to leave the Beis haMerchatz or to enter another room does not constitute an Ones to absolve him [of the obligation of Birchos haNehenin]. However, an extended period, even if it would not constitute Pikuach Nefesh, could certainly be considered an Ones. The limit, in my humble opinion, would be a loss of an entire day of eating – a complete day of fasting. This is certainly an absolute Ones and a matter of distress and to many people it would be harmful. This is the context of the case in Brachos of a Ba'al Keri.

Rav Asher Weiss Shlit"a disputes Rav Vosner's ruling (*Minchas Asher* 2:21). According to Rav Asher, the Shiur of "a loss of an entire day of eating" is too long. Though we cannot consider a short amount of time to be an *Ones* for which one is exempt from a Bracha, and we would instruct a person in that situation to wait until he can recite a Bracha, however, an amount of time that would cause distress or difficulty would constitute an absolute *Ones*, even if it was not an entire day.

⁴ We may also point out that the *Biur Halacha* (and, more clearly, in the *Mishna Berura ad loc.* 9) clearly implies that in a true case of *Ones* a person may eat without a Bracha, as we conclude in this essay. See also *Minchas Shlomo*, *Mahdura Kama* 18 where this inference is made.

We should point out that the *Biur Halacha* also implies that an extreme Shiur is unnecessary. He only states that a person in a *Beis haMerchatz* is able to leave the premises to make a Bracha or move to another room – he does not imply that a person would be obliged to make a greater effort than that, such as an entire day without food!