Pouring the Water

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The Mishnah (Sukkah 4:9) records that the Sadducees did not observe the practice of nisuch hamayim (pouring of the water) in the Beit HaMikdash on Sukkot, for they believed only in the Written Torah and did not accept the traditions of the Oral Torah. On one occasion, a certain Sadducean Kohen, refusing to perform the nisuch hamayim, poured the water on his feet instead of on the mizbe’ach. The enraged onlookers pelted him with etrogim, causing the mizbe’ach to become damaged and unfit for use.

The biblical source for nisuch hamayim is a matter of dispute among the Tanna’im (Ta’anit 2b–3a). One opinion holds that it is a Halachah LeMoshe MiSinai, a tradition of the Oral Torah that has no source in the Written Torah. It cannot be derived through any of the exegetical principles through which the Torah is expounded. Other Tanna’im disagree and do find a source in the Written Torah for nisuch hamayim. Rebbi Yehudah ben Bet’Yaareh learns that the three letters, נ, ו, and י in the words, מים, מים, and מים, respectively (Bamidbar 29:18, 31, 33), are extra and were added for exegetical purposes. The resulting word, מים, is an allusion to nisuch hamayim.

Rebbi Akiva’s source is the use of the plural term מים, “and its libations,” a reference to a nisuch hamayim and a nisuch hayayin.

Maimonides interprets another Tannaitic dispute on the basis of this debate. The Gemara (Zevachim 110b) discusses which of the Beit HaMikdash services one would be punished for performing if he did so outside of the Beit HaMikdash. According to Rebbi Elazar, not only is one who slaughters or offers a sacrifice outside the Beit HaMikdash liable for karet, but also one who performs the nisuch hamayim outside during Sukkot. The Gemara states, “Rebbi Elazar said [this ruling] according to the opinion of Rebbi Akiva, his teacher, who said that nisuch hamayim is of biblical origin,” but the Gemara does not explain the interdependence of these two teachings.

Maimonides explains that if we were to derive nisuch hamayim from the Oral Torah exposition of Rebbi Akiva, reading in between the lines of the Written Torah, the punishment of karet would be appropriate if nisuch were to be performed outside. Maimonides writes that since, instead, nisuch hamayim is a Halachah LeMoshe MiSinai, we do not accept the opinion of Rebbi Elazar, and one who performs the nisuch hamayim on Sukkot outside the Beit HaMikdash would not be liable.

The Rosh makes a similar comment regarding the Halachah LeMoshe MiSinai of half-payment for damages due to pebbles sent flying in the normal course of an animal’s activity. Rava questions whether the damage caused by the force generated by the animal is generally treated as if it was caused directly by the body of the animal itself so that the owner should have been exonerated in full damages, or if generally one’s force is not like his body and the owner should therefore have been totally exempt from payment for damages. Rava concludes that the former explanation is the correct one; one’s force is considered like his body. The Halachah LeMoshe MiSinai that the rabbis have received as part of the Oral tradition serves to reduce the owner’s liability to half-damages in this case.

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