

KRIAT SHEMA 3:5

by Rabbi Yitzchak Etshalom

[in the previous Halakhah, Rambam stated that matters of sanctity -i.e. words of Torah - may not be said in a bathhouse or Beit haKissei, even in another language...]

5. It is permissible to speak about mundane matters in *Lashon haKodesh* (the Holy Tongue - Hebrew) in a Beit haKissei.

Similarly, one may say *kinnuyim* (cognomens for God), such as *Rahum* (Merciful One) and *Hanun* (Gracious One) and *Ne'eman* (Trustworthy One) in a Beit haKissei.

However, it is forbidden to say those unique Names - which are the Names which are not to be erased - in a Beit haKissei or in an old (already used) bathhouse.

However, if a situation arose where he had to prevent his fellow from violating a prohibition in a bathhouse or Beit haKissei, he does so, even in Lashon haKodesh and even [by saying] holy matters.

[RABD: We never find the name *Rachum* except in reference to the Creator, and [therefore] it is forbidden to say it in a Beit haKissei.]

KINNUYIM

Yitzchak Etshalom

I.

THE SOURCES

The Tosefta in Berakhot (2:21) states:

If someone enters a bathhouse:

- (a) In that section where people are generally dressed, one may read [Scripture], say Tefillah and - it goes without saying - greet each other (*She'ilat Shalom* - lit. "inquiring about one's welfare"); he may put on Tefillin and - it goes without saying - he does not need to take them off.
- (b) In that section where [some] people are dressed and [some] undressed, there is *She'ilat Shalom*, however it is forbidden to read [Scripture] or to say Tefillah; he does not need to take off his Tefillin but he does not put them on, either.
- (c) In that section where people are [exclusively] undressed, there is no *She'ilat Shalom* and - it

goes without saying - it is forbidden to read [Scripture] or to say Tefillah; he must take off his Tefillin and - it goes without saying - he does not put them on.

(There are quite a few interesting points raised in this Tosefta - besides the formulation - which will be addressed in Hilkhot Tefillin (4:22)).

The Gemara in Shabbat takes note of the inclusion of *She'ilat Shalom* among those things which are forbidden in a bathhouse, and infers:

"...this supports R. Hamnuna's teaching in the name of 'Ulla, who said: It is forbidden to "give *Shalom*" to a fellow in a bathhouse, since it says: "[Then Gideon built an altar there to YHVH,] and called it, YHVH is peace (*YHVH Shalom*)..." (Shoftim [Judges] 6:24). If so, it should also be forbidden to mention "faith" in a Beit haKissei [note the seamless shift from bathhouse to outhouse], as it says: "[Know therefore that YHVH your God is God,] the faithful God [who maintains covenant loyalty with those who love him and keep his commandments, to a thousand generations] (Devarim [Deuteronomy] 7:9). And if you say, that is also true (that it is forbidden to mention "faith" there), but Rava b. Mahs'ya said in the name of R. Hamma b. Guria in the name of Rav: It is permissible to mention "faith" in a Beit haKissei! There [in the case of "faith"], the Name is not itself called that, as we translate: "The God of faith"; here [in the case of "Shalom"], the Name itself is called Shalom, as it says: "and he called it, YHVH Shalom."

In this discussion, we are introduced to the distinction between a "Name" for God and an "Adjective" for God. Since Gid'on called his altar "YHVH Shalom", we understand this to mean that "Shalom" is another name for God. Conversely, although God is described in the Torah as a "Faithful God", this doesn't imply that "Faithful" is a Name; rather, it is an altogether appropriate adjective for Him. The upshot of this is that if we identify a Name for God, that may not be said in the bathroom; however, an adjective which is associated with God isn't included in that prohibition.

Tosafot (Shabbat 10b s.v. d'M'targ'minan) raises an objection to this distinction: Just as the Gemara justifies permitting "Faith" in the Beit haKissei because the verse is translated "the God of faith"; similarly, we translate the verse in Shoftim "the God who makes peace" - so "Shalom" is also a modifier and not a Name! Tosafot's answer is based upon the wording of Gid'on: "YHVH Shalom" - and, if Gid'on only meant to say "God is the one who makes peace", he would have said "YHVH Sh'lomo" (lit. "YHVH who is [the cause of] his peace"). Rosh (Teshuvot 3:15) offers a similar response. However, Tosafot first explains that Gid'on called God "Shalom" because He makes peace. The distinction between this and "faithful God" requires clarification. This will be addressed below in section III.

The topic of Kinnuyim has ramifications far beyond the prohibitions associated with bathhouses and outhouses. In every area of Halakhah where God's Name plays a role, the issue of Kinnuyim must be addressed. When is a descriptive of God considered a "Name"?

One of the central areas of Halakhah where the issues of Name/Kinnuy comes up is Sh'vu'ot -

Oaths. We will look at one sugya in Sh'vu'ot which will (hopefully) illuminate our way here.

II.

"SHEM BISH'VU'A"

[Brief intro: There are generally two types of Shavu'ot:

(a) a voluntary Sh'vu'a'h in which the Nishba' takes upon himself some obligation OR makes a claim about the past; and

(b) administered Sh'vu'ot which either the court or a litigant impose upon someone for one of several reasons.]

Although the scope of this Halakhah is subject to debate (see MT Sh'vu'ot 2:3 and RABD there), it is clear that a mention of God is necessary in [at least] some types of Sh'vu'ot. This is rooted, according to some Rishonim in the Biblical Mitzvah: *uviSh'mo Tishave'a* - "And by His Name you shall swear" (Devarim 6:13, 10:20). (see MT Sh'vu'ot 11:1; see also Sefer haMitzvot l'Rambam, Mitzvat Aseh #7 and comments of RABD and Ramban ad loc. See also Ramban on Devarim 6:13)

Regarding this Halakhah, what constitutes "His Name"?

The Mishnah in Sh'vu'ot (4:13, referring to Sh'vu'at haEdut - foreswearing a reluctant witness) states: [If the litigant says:] "I am foreswearing you, [or] commanding you, [or] forbidding you," they [the witnesses] are culpable [if they actually have testimony and refuse to testify on his behalf.].

"*Bashamayim uva'Aretz* (lit. "by the heavens and earth") - they are exempt... "by *Adonai*, [or] by *YHVH*, [or] by *Shaddai*, [or] by *Tz'va'ot*, [or] by *Hanun v'Rahum*, [or] by *Erekh Apayim*, [or] by *Rav Hesed* or by any of the Kinnuyim, they are culpable... [*Shaddai* and *Tz'va'ot* are considered "Names" of God - however, see Rashi (Sanhedrin 66a s.v. K'lalam) who considers them kinnuyim. The kinnuyim mentioned here, *Hanun v'Rachum, Erekh Apayim, Rav Hesed* are taken directly from the 13 attributes of mercy - (Shemot [Exodus] 34:6) and mean, respectively, "Gracious and Compassionate", "Long-Suffering", "Abundant in Kindness".]

The Gemara (Sh'vu'ot 35a-b) notes the inclusion of *Hanun v'Rahum* with other "Names" for God:

Shall we say that *Hanun v'Rahum* are Names? We raise a contradiction as follows: There are some Names which may be erased and some which may not be erased...these are the Name which may not be erased: for instance *El*, *Elohekha*, *Elohim*, *Eloheikhem*, *Eh'yeh Asher Eh'yeh*, *Adonai*, *YHVH*, *Shaddai*, *Tz'va'ot* - these may not be erased...however, *haGadol* (= the Great One), *haGibbor* (= the Powerful One), *haNora* (the Awe-Inspiring One)...*Hanun v'Rahum*...these may be erased!

Abaye explained: [the intent of our the oath in our Mishnah is] "by He Who is Gracious" or "by He Who is Compassionate".

Rava responded: If so, "by heaven and earth" should also be [understood to mean] "by He to Whom heaven and earth belong"!

Let us consider: since nothing else is called *Rahum v'Hanun*, he certainly meant to say "by _He_ Who _is_ Compassionate"; however, since there _are_ heavens and earth [as independent existents], he meant "by heaven and earth."

Before analyzing the ramifications of this sugya, it is important to note a variant manuscript, read by Rabbenu Hannanel. Instead of Abaye's explanation being: *b'Mi sheHu Hanun* - "by He Who is Gracious", he reads *b'Mi sheSh'mo Hanun* - "by He Whose Name is Gracious". This variation will become significant when we discuss our dispute between Rambam and RABD.

UNDERSTANDING ABAYE'S SOLUTION

Abaye's solution - which seems to be accepted by the Gemara - is built on two assumptions:

(1) There is a difference between a kinnuy and a Name as far as erasing is concerned, but not for Sh'vu'ot.

The Torah commands us to destroy all forms of idolatry, taking apart their altars, destroying their names etc. in Eretz Yisrael (Devarim 12:1-3) - and to avoid doing those things to God (v. 4). That is the source for the prohibition of erasing any of God's Names. However, this does not apply to words which could be - or usually are - used as referents to God. Therefore, words like *Hanun*, *Rahum* etc. may be erased (see MT Yesodei haTorah 6:1,5). The difference is that a written word only carries the inherent meaning it bears; whereas the spoken word may be - and often must be - judged by its context. Therefore, although we may erase words like *Hanun* (however, read carefully Yesodei haTorah 6:5, 8), when spoken within a context which implies God, they may be understood that way.

(2) We interpret the referent in a Sh'vu'ah in a way that implies God only when it is unreasonable to do otherwise within that context.

Within the context of an oath, the Iforelswearer is clearly attaching his words to something of importance, value, eternity etc. Therefore, since only God is the only One who is referred to as *Compassionate* etc. who would reasonably be the referent, we assign that meaning to the oath. However, since a person might be swearing by the heavens and earth (see Rashi on Devarim 32:1), we might reasonably assign his meaning that way and omit God from the oath (thus obviating our need to "read words" into the oath.)

The upshot of the sugya in Sh'vu'ot is that referents for God which have no other reasonable attribution are considered kinnuyim - and *Rahum* & *Hanun* are clearly presented in that light. So why does Rambam allow *Rahum* in the Beit haKissei?

III.

IMPLICATION OF KINNUIYIM

In Hilkhhot De'ot (1:5-6) Rambam presents his ideal of the "golden mean" (see his Shmoneh Perakim for a fuller development; see also Marvin Fox's Interpreting Maimonides Ch. 5 for a comparative study of the Maimonidean and Aristotelian approaches). Rambam defines these ways (moderation) as being a fulfillment of the command to "walk in His ways" (Devarim 28:9). In Halakhah 6, he gives these examples: "Just as He is called *Hanun*, so you should be Hanun. "Just as He is called *Rahum*, so you should be Rahum..."

The source for this idea - of imitatio dei in characteristics, not just actions (compare Sotah 14a), is the Gemara in Shabbat (133b): Abba Sha'ul says: *V'Anvehu* (from Shemot 15:2) - be like Him; just as He is Hanun v'Rahum, so you, too, be Hanun v'Rahum.

Note the subtle difference in Rambam's presentation - he never describes God as actually being compassionate, rather that He is "called" compassionate, gracious, holy, etc. Rambam goes on to explain (ibid) - In this manner the Nevi'im (prophets) referred to God with all of these kinnuyim - *Erekh Apayim* *Rav Hesed* *Tzadik v'Yashar* ...to inform us that these are good and proper paths and a person should guide himself in them and be like Him to the best of his powers.

Without resorting to linguistic acrobatics, Rambam seems to be saying that God is not necessarily any of those things (this fits, of course, with Rambam's "negative theology" - see Guide I:58) - but that He is described in those terms because they establish a proper model for us - our imitatio dei brings us to the best possible characteristics. This is a bit clouded, since at the end of that Halakhah, Rambam says that by doing this we will be imitating Him - but the implication is still relevant for our purposes:

Kinnuyim are descriptions of God's "traits" which are instructive for us - with the ultimate goal being that we achieve those characteristics within our own lives.

IV. RAMBAM/RABD

We can now return to the sugya in Sh'vu'ot and understand Rambam's take on it: Rambam reads like Rabbenue Hannanel - "by He Whose Name is Rahum" etc. In other words, since the person taking the oath is saying *b'Rahum*, he must be referring to the source of that characteristic, the One Who is called that - God. Rashi (and, perhaps, RABD) read *b'mi sheHu Hanun* - as if to say, that is what God really is, and any reference to Rahum must be to the ultimate Rahum - God. Although the results are the same for the Sh'vu'ah, when we approach our problem, the paths diverge.

If we begin by assuming that *Rahum* refers to "The One Who IS compassionate", then the word itself is a "nickname" for God, is clearly referring to Him and is forbidden in a bathroom. The only way it would be permitted would be if Rahum were a term that was commonly used to describe other people. (See Ritba, Sh'vu'ot 35b s.v. Keyvan and Rabbenu Manoach on our Halakhah for alternate treatments of the problem.) Since it is not, it must refer to God. We will posit that to be RABD's

approach.

However, since Rambam clearly holds that Rahum is a description, the entire goal of which is to instruct us how to become Rahum (and Hanun and Kadosh etc.), therefore it is ideally a description of a person. We would not assume that in an oath, since swearing by a person (a la *Hei Pharaoh* - by the life of Pharaoh - Beresheet [Genesis] 42:16) would only be meaningful if that person's name was mentioned; however, to mention Rahum and the like in a bathroom, according to Rambam, in no way is a referent to God since, ideally, it would be referring to one of His creatures - who has begun to imitate the Creator.

now, to the questions:

Q1: If we are not allowed to speak Divrei Torah in these places, even in another language, why are we allowed to use *kinnuyim* for God there?

A: See the shiur.

Q2: What is RABD's reasoning and how would Rambam respond?

A: See the shiur.

Q3: Why does this prohibition apply to any Beit haKissei but only to an already used bathhouse?

A: See our earlier discussion about *hazmanah*, posted at K'riat Sh'ma 3:02-03. On a side note, see also Teshuvot Rashba 7:418. He rules that a Mikveh, used primarily for ablution of vessels (*Tevillat Keilim*) does not constitute a problem for reciting the necessary B'rakhah there, even though it may be a place where people are sometimes undressed; his argument is that since the water is cold, there is no smell (as a result of dirty bodies washing there). This is an interesting approach which views the entire problem of reciting God's Name in a bathhouse (in the absence of actual nakedness) as related to bad smells - which we will discuss later on in this chapter.

Q4: If it is forbidden to speak words of Torah in these places, why should it be permitted in order to prevent someone from violating a prohibition? - we generally don't violate laws in order to keep another from his own violation (see Shabbat 4a and Tosafot there, s.v. v'Khi Omrim)

A: We see an even more radical possibility in the Yerushalmi (Shabbat 3:3) where, according to one opinion, we may even inquire about Halakhot pertaining to a bathhouse in a bathhouse and about Halakhot pertaining to a Beit haKissei in a Beit haKissei. At least according to that opinion (attributed to R. Yehoshua b. Levi), we can explain the general prohibition of discussing words of Torah in those places as an affront to the honor of Torah; however, if the Halakhic inquiry is directed to a present situation (e.g. to prevent a violation) or to a more easily demonstrable lesson about those Halakhot (for instance, to point out which parts of the bathhouse present no problem for Tefillin etc.) then that is also proper honor for the Torah (see Berakhot 62a - *Torah hi, v'lilmod ani tzarikh* - "It is Torah and

I must learn it" - the case of students following their teachers into private places to observe their conduct.) See also Mishna Avodah Zarah 3:4 and the discussion in the Gemara at 44b re: responding and debating in a bathhouse - see also Tosafot ibid s.v. Tana.

However, from the perspective of the Bavli, only "prevention of a violation" is allowed; we can posit several reasons for this exception:

(a) In the same way as we explain the Yerushalmi; the greater honor for Torah is achieved when her violations are prevented;

(b) Indeed, the prohibition of speaking words of Torah in a bathhouse is not as "serious" as an active violation of Halakhah and is superseded by the latter. Look carefully at the cited sugya (Shabbat 4a) and the Rishonim there - sometimes we do transgress a "light" violation to prevent our fellow from transgressing a serious one.

(c) Perhaps the prohibition of speaking words of Torah in a bathhouse relates chiefly to "engaging" in study as opposed to operative instruction. See our posting at Talmud Torah 1:1.

See also Hiddushei Ramban Shabbat 40b s.v. l'Afrushei - he points out that if the "instructor" were merely to say "don't do that", it might be understood just to be his own interest (e.g. "I don't want that hot water now") and the fact of the prohibition in question would not be transmitted.

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