

16.5.1

30b (משנה א') → 32a (דמריה תלי)

- I 'משנה א': dispute between re: "הקדש בטעות" (possibly)
- a case: man states "first black ox to come out of my house is הקדש" and a white one came first:
- i הקדש – ב"ש
 - ii הקדש no – ב"ה
 - iii Analysis:
 - 1 First approach: ב"ש infers process of הקדש from תמורה ("סוף הקדש") – which works even בטעות
 - (a) Challenge to ב"ש: if you declare a תמורה that will begin in a few hours – it isn't תמורה until then
 - (i) Explanation: his statement wasn't fulfilled – a white ox came out → shouldn't be הקדש
 - 2 Perhaps: the case where he had multiple black oxen and he wanted a particular one
 - (a) Challenge: if so, should read שיצא בראשון
 - 3 Rather: he only has 1 black ox and assumed it would be the first out – ב"ש ignore the fact that his "tongue tripped him up"
 - (a) Proof: later (ג) משנה where ב"ה support their argument from cancelled נזירות that the animal is חולין
 - (b) Answer: ב"ה misunderstood ב"ש, thinking their argument was הקדש בטעות – it was really ignoring misexpressed formulation
 - 4 Challenge: ב"ש do maintain הקדש בטעות is הקדש – from case of 4 men, each taking a different conditional הפלאה on whether the approaching group are X or not – ב"ש rules that all of them are נזירים (regardless)
 - (a) Answer: indeed, ב"ש do maintain הקדש בטעות הוה הקדש – but it can't be proven from our משנה
 - 5 Alternate approach (אב"י): read statement as past tense (שיצא); modify verbs in ב' משנה instead of (שתעלה)
- II 'משנה ב': further examples of הקדש בטעות
- a first gold coin to come up in my hand and a silver one came up – ב"ש validate הקדש
- b first barrel of wine to come into my hand – and a barrel of oil came – ב"ש validate הקדש
- c Question: do the "errors" in our משניות represent the notion that a person is מקדיש generously or not (עין יפה/רעה)
- i חסדא ג' white oxen are preferable
 - 1 hence: משנה seems to prove עין יפה (ב"ש allows for הקדש of white one when he declared black)
 - 2 Challenge: 'ב' משנה allows for silver when he said gold, wine when he said oil
 - (a) Answer (to oil): in גליל where wine is more precious
 - (b) Answer (to oxen): חסדא ר' referent is particular kind of white ox – קרמונאי; generally, black are preferred
 - (c) Note: black oxen are best for pulling, red for meat and white for plowing
- III 'משנה ג': cancelled נזירות as proof of status of הקדש בטעות
- a if someone vowed נזירות and was violating it and then asked to have his נזירות released
- i if the חכם bans him - he must count נזירות from the beginning
 - 1 Challenge: this doesn't comport with either ר' יוסי or רבנן, who require him, in any case, to lose some days for his violation
 - (a) Answer: could be either
 - (i) חסדא ר' יוסי: our משנה is referring to a 30-day נזירות (יוסי ר' would only require the extra period if he violated for more than 30 days)
 - (ii) דבנן meaning of our משנה is - he must count as per the number of days he had already violated
 - ii If the חכם releases him - if he already designated his animals – they go back to flock
 - 1 הקדש בטעות לאו שמייה הקדש ג'ה
 - (a) note: teaches that even a תמורה would be reverted if the original הקדש was cancelled
 - 2 הקדש ש"ש: counter with rule of error in identifying בהמה (#9 and/or #11, if identified as #10, are הקדש)
 - 3 ג'ה: identification doesn't sanctify them; text that sanctifies #10 allows for #9 and #11 (not #8 or #12)
 - b related discussion about בהמה מעשר:
 - i ר' נחמן: "off numbers" only valid if done in error
 - 1 challenge: if so, why didn't ב"ה counter ב"ש by noting that מעשר בהמה doesn't work if intentionally off?
 - 2 Defense: that works against them, by the following argument:
 - (a) מעשר בהמה only works בטעות and הקדש works בכונה → הקדש should work if done unintentionally
 - (b) rejection: הקדש depends on intent of מקדיש
 - ii ר' חסדא: if done in error – and certainly if done intentionally