

פרק תשיעי – מעשר בהמה

We have touched on מעשר בהמה several times during the first 8 chapters as there are numerous points of intersection and commonality between במה טהורה and מעשר בהמה; this פרק is devoted fully to the topic – see the first verse below.

31.9.1

53a (משנה א) → 54b (חדא מיניה ר"פ אמרה)

1. וְכָל מִעֶשֶׂר בְּקָר וּצֹאֵן כָּל אֲשֶׁר יַעֲבֹר תַּחַת הַשֶּׁבֶט הַשְּׂשִׁירִי יִהְיֶה קָדֹשׁ לַה': לֹא יִבָּקֵר בֵּין טוֹב וְלֹא יִמְיָרֻוּ וְאִם הֵמָּר יִמְיָרֻוּ וְהָיָה הוּא וְיִתְמוּרָתוֹ יִהְיֶה קָדֹשׁ לֹא יִגָּאֵל: וְיִקְרָא כֹזֶלֶב-לֵג
2. וְהִבְאֵתָם שְׂמֶה עֲלֵיהֶם וְזִבְחֵיהֶם וְאֵת מִעֲשֹׂרֵיהֶם וְאֵת תְּרוּמַת יִדְכֶם וְנִדְרֵיכֶם וְנִדְבָתֵיכֶם וּבְכֹרֶת בְּקָרְכֶם וּצֹאֲנֵיכֶם: דְּבָרִים יב, ו
3. נָפֵשׁ כִּי תִחַטָּא וּמַעֲלָה מַעַל בַּה' וְכַחַשׁ בְּעֻמִּיתוֹ בִּפְקֻדוֹן אוֹ בְּתִשּׁוּמַת יָד אוֹ בְּגֹזֶל אוֹ עֲשָׂק אֶת עֻמִּיתוֹ: וְיִקְרָא ה, כֹּא
4. עֲשֹׂר תַעֲשֹׂר אֶת כָּל תְּבוּאֹת זֵרַעְךָ הַיֵּצֵא הַשָּׂדֶה שְׁנָה שְׁנָה: דְּבָרִים יד, כב
5. כָּל חֶלֶב יִצְהָר וְכָל חֶלֶב תִּירוֹשׁ וְדָגָן רִאשִׁיתָם אֲשֶׁר יִתְנוּ לַה' לֶךְ נִתְתִּים: בְּמִדְבַר יח, יב

I מע"ב: application of משנה א

- a Applies: globally (א"י וחר"ל) at all times (בפני/שלא בפני הבית), but only to חולין,
- b Animals: applies to flock and herd, but they cannot be mixed; however, goats and sheep may be mixed
- c Timing: applies to animals born in earlier years as well as newborns – but they may not be mixed
 - i Counter: reasoning which would argue in favor of allowing mixing:
 - 1 If: חדש וישן, which may be mated, can be mingled for מע"ב
 - 2 Then certainly: sheep and goats, which may not be mated (כלאים) may not be mingled for מע"ב
 - ii Therefore: v. 1 uses וצאן – teaching that the entire flock (sheep and goats) are one "kind" for מע"ב

II Analysis

- a Global application: apparently runs counter to ר"ע, who, interpreting מעשרותיכם (v. 2) read this as מע"ש and מע"ב
 - i Just as: מע"ש cannot be brought from חר"ל, similarly מע"ב cannot be brought up from חר"ל
 - ii Rejection: מע"ש could agree with our משנה; he rejects bringing offering from חר"ל (per v. 2), but it is קדוש
 - iii Question: if so, what is the impact of its קדושה?
 - 1 Answer: that it may not be eaten without a מום
- b Application at all times: (background – they no longer practiced מע"ב) – why not today?
 - i Answer1 (רב הונא): precaution against a יתום (animal born after mother's death) – which is טטור
 - 1 Challenge: if so, they should have stopped the practice in the earlier times
 - 2 Answer: in those days, they could have announced the rule of יתום and people wouldn't have included it
 - (a) Block: in our day, we could do the same
 - ii Answer2 (רבה): due to תקלה (people may eat it before it gets a מום)
 - 1 Support (ברייתא): we do not allow ערכים, הקדש or חרם in our day
 - (a) If: someone did so, animals are killed (indirectly), clothing etc. is left to rot and metals – ים המלח
 - 2 Challenge: if so, we should practice the same with בכורות in our day
 - (a) Block: קדושת בכור is not up to us – it is מבטן
 - (b) Rather: challenge was – we should make a non-Jew a partner in every בכור (e.g. the ear) to exempt
 - (c) Answer: there is another solution – you could (per יהודה) make the בכור into a בע"מ during delivery
 - (i) Challenge: if so, let's use this solution for מע"ב –
 - 1. Challenge: he won't know which will come out first
 - 2. Proposal: set up the מומם first
 - a. Block: v. 1 disallows such "planning" (לא יבקר)
 - 3. Rather: he could make a מום on the entire flock in advance
 - a. Answer: if so, when the מקדש is rebuilt, we won't have any תמימים left!
 - b. Challenge: same should apply to בכורות
 - i. Answer: we could offer non-בכורות (פשוטין)
 - ii. Counter: with מע"ב, we could also offer לקוחין (which are exempt from מע"ב)
 - iii. Defense: if most of the animals are מוממים, and there are natural מומים that occur – won't be any left → that's not a solution for מע"ב

- c *Exclusion of מוקדשין*: seems obvious – since he doesn't own the animal
- Answer*: in case of קדשים (שלמים) per ריה"ג, who holds that קדק"ל are owned by בעלים, per v. 3
 - Question*: if so, why aren't they included in מע"ב?
 - Answer*: v. 1 – יהיה קודש – excluding that which is already קודש
 - Challenge*: how could קדושה קלה (מע"ב) take effect on קדושה קלה, if even קדושה חמורה cannot do so?
 - Background*: תמורה ז:ג – קדשי בדה"ב – קדשי מזבח cannot be "upgraded" to קדשי מזבח (i.e. ~[קדושה קלה] → [קדושה חמורה])
 - Answer*: in that case, not every animal is slated for מזבח; here, all animals are slated for מע"ב
 - Therefore*: we might have thought that קדשים קלים are included in מע"ב – קמ"ל they aren't (from יהיה קודש)
- d *Mixture of flock vs separation of חדש וישן*: counter-argument – חדש should be able to be mingled for מע"ב
- If: sheep and goats, which may not be mated, are mingled for מע"ב
 - Then certainly: חדש וישן, which may be mated, may be taken together as מע"ב
 - Answer*: v. 4 עשר תעשר alludes to מעשרות – מע"ש and מע"ב and they are compared via juxtaposition
 - Just as: מע"ש may not be taken from one year's crop for another's
 - Similarly: מע"ב must all be from same year
 - Reductio*: via that same comparison, sheep and goats should not be able to be mingled for מע"ב
 - Block*: וצאן (v. 1) extends to make all flock one grouping for מע"ב
 - Reductio*: comparison can now be turned inside-out and חדש וישן should be able to be mingled
 - Block*: עשר תעשר compares מע"ש to מע"ב
 - Explanation*: v. 4 marks off שנה שנה – only for issue of "years" are they compared in this direction
- iii *Tangent*: source for not taking תרומה from מינו (which is basis of above argument) – תרומות ב:ד – דגן and תירוש ויצהר
- v. 5 – extra word חלב indicates "give the חלב (finest) of each of ויצהר, תירוש and דגן"
 - We see: that תירוש ויצהר (wine and oil; i.e. grapes and olives) may not be taken for each other
 - How do we know: that wine/grain or grain/grain (barley and wheat) cannot be taken for each other?
 - Answer*: ק"ו – if grapes and olives, which may be planted in proximity, are separate for תר"מ
 - Then certainly: barley and wheat, which may not be planted in proximity (כלאי זרעים)
 - And: wheat with grapes, which are כלאי הכרם – must be taken separately
 - Challenge*: according to ר' יאשיה (הלכה), no כלאי הכרם without wheat, barley and grape seed in one seedpod – what is the source?
 - Answer*: if תירוש ויצהר, which aren't כלאים even with an additional 3rd must be taken separately
 - Then certainly: wheat and barley, which are כלאים if a 3rd is added, are taken separately
3. *Question*: how do we know to apply this to any 2 species (which are מד"ס)?
- Answer*: everything רבנן enacted was based on דין תורה (כל דתקון רבנן כעין דאורייתא תקון)
- (ii) *Challenge (to אב"י)*: then מע"ב, where we have no textual separation (as we do in re: תר"מ) – for instance מעשר בקר ומעשר צאן – we should be able to mingle all of them (ב/ovines)
- Answer*: העשירי (v. 1) – each (of בקר and צאן) gets his own "tenth"
 - Challenge*: then we should have to separate goats and sheep separately
 - Answer*: וצאן (v. 1) joins them as one
 - Challenge*: in v. 5, all דגן should be one, and barley and wheat should be able to be mixed
 - Answer1* (אב"י – also אילעא v. 5): ראשיתם is plural → separate דגנים
 - Answer2* (רבא): no need for ראשיתם – still can't argue that all דגן is one:
 - אנא teaches that goats and sheep are one, if we thought that they must be taken separately, it could have stated בהמה מעשר (we wouldn't have errantly included חיות, as we infer via תחת::תחת from קדשים that only בהמות are included in מע"ב);
 - And: we would have inferred, via our ק"ו from חדש וישן, that each species must be taken separately; the תורה wrote בקר וצאן to only separate flock from herd
 - But: here, the תורה had no available word besides דגן to write → not singular
 - Challenge*: perhaps if it said בהמה it would have allowed mingling flock/herd?
 - Answer*: רבא accepts העשירי – must be multiple groups (at least two distinct groups)
- e. *Answer2 (רבא - alternate)*: without העשירי we couldn't suggest that flock and herd are one
- Reason*: מעשר דגן is compared to מע"ב – must be separate מינין for הפרשה
 - Challenge*: רבא is the one who claimed that the comparison is only for שנה שנה
 - Answer1*: רבא changed his mind about that and allowed for expansion of עשר תעשר
 - Answer2*: that last argument was presented by his student, ר"פ, not by רבא