

33.5.3; 26b (משנה ה) → 27b (סיום הפרק)

1. ואם תחתיק תעמד בהקרת לא פשתה צרבת השחין הוא וטהרו הפה: ויקרא יג, כג  
 2. תחת הנחשת אביא זהב ותחת הכסף אביא כסף ותחת העצים נחשת ותחת האבנים ברזל ושמתי פקדתך שלום ונגשיך צדקה: ישעיהו ס, יז

- I תמורה: proper phrasing of משנה ה  
 a if: he says "זו תחת/תמורת/חליפת זו" – any of these are valid as attachment (תמורה)  
 b however: if he says "זו מחוללת על זו" – not תמורה  
 i and if: the animal is a בע"מ, then it becomes חולין and must be assessed (so that he'll give the difference in נדבה)
- II Analysis of use and meaning of תחת  
 a challenge (to our משנה): in re: בדק הבית, it is understood to mean redemption (חילול)  
 i answer (אביי): תחת is an equivocate – could mean תמורה (per v. 1) or could mean חילול (per v. 2)  
 1 therefore: in re: קדשי מזבח, where תמורה holds, it means תמורה; in re: בדה"ב, where there is no תמורה, means חילול  
 2 בעל מום: even in case of קדשי מזבח, could mean חילול – if the index animal were a בעל מום  
 (a) אשי ג' even in case of בע"מ, could go either way  
 (i) if: he has his hand on the בע"מ, he intends to redeem  
 (ii) but if: he has his hand on the חולין, he intends to attach
- III אביי's sequence of questions  
 a If: he had 2 pairs of animals, 2 בע"מ and 2 חולין – both תמימות and he declared אלו תחת אלו  
 i Lemma1: did he intend to make תמורה – and gets מכות OR  
 ii Lemma2: do we assume that a person never deliberately means an איסור when he may have meant היתר  
 iii If: we accept the argument that לא שביק היתרא, what if he had 2 pairs, one each בע"מ and one each תמימה  
 1 Lemma1: he intended תמימה to take place of בע"מ an vice-versa – and only one set of מכות OR  
 2 Lemma2: he intended to generate a double-תמורה and gets two sets of מכות  
 3 If: we accept the argument that לא שביק היתרא even here and he only gets 1 set of מכות,  
 4 Then: if he had 3 sets of animals, 1 of the בע"מ and all of the חולין were w/o מום  
 (a) Lemma1: since he clearly intends at least 2 תמורות, do we assume that he intends all 3 as תמורות OR  
 (b) Lemma2: do we still give him benefit of the doubt and assume ...לא שביק... for the last set – החלפה  
 (c) If: we accept the argument that לא שביק היתרא, what if he had 4 pairs, 1 בע"מ and all the rest תמימות  
 (i) Lemma1: since he has already established a pattern – אתחזק באיסורא – with 3 violations – 4<sup>th</sup> is also תמורה  
 (ii) Lemma2: we still maintain that לא שביק and he only gets 3 מכות תיקון
- IV Reexamining the end of the משנה – assessing the בע"מ for its value and paying the difference  
 a מד"ס ג' יוחנן: the value added is מ"ס  
 b מד"ל: value added is ג'ל  
 c question: they can't be disagreeing about a case of אונאה (where difference is 1/6)  
 i reason: ד"ט establishes that הקדש is exempt from אונאה  
 ii perhaps: the case is one of בטול מקח (where difference is more than 1/6)  
 1 reason: ר' ינאי reported about הקדש and ר' ירמיה reported about מקח – both in ר"י's name, that מקח applies  
 iii Answer: switch positions – ר"י maintains that the differential-payment is מד"ס and מד"ל  
 1 Challenge: according to ר' ירמיה, הקדש is still untouched by מקח, cannot switch (ר' – don't switch)  
 2 proposal: ר' ירמיה/ר' יונה dispute whether to accept שמואל's ruling  
 (a) שמואל: if you redeem שוהה מנה for only a פרוטה – it is מחולל; ר' יונה accepts, ר' ירמיה rejects  
 (b) Rejection: all accept שמואל; ר' יונה believes that it is only בדיעבד, ר' ירמיה – even לכתחילה  
 iv Alternate answer (per ר"ח): ר' יוחנן holds הקדש "not having אונאה" means it isn't limited to 1/6; any difference is owed
- d עולה: only have to reassess if the original was done by 2 (or 1), but if done by 3 – that is final  
 i Challenge: ר' שימי ruled that 2 is "like 100" for עדות, but vis-à-vis דעות, the more, the better  
 ii Additional challenge: when we have 3 vs. 3, we always follow the latter (larger amount) – benefit to הקדש  
 1 Answer: עולה holds that מד"ס is דמים – and in such a case, they were lenient (let it stay with שומא of 3)
- V משנה ו: continued presentation of phrasing of תמורה; if he said תחת עולה (e.g.) – means nothing; if he said תחת עולה זו (e.g.) and had one in his house – valid; else, meaningless;  
 a And if: he declared that a בהמה טמאה or בע"מ was an עולה (e.g.) – meaningless; but if "לעולה" – then sold and funds → עולה  
 i דב: our משנה is contra ר"מ, who holds אדם מוציא דבריו לבטלה (רב's observation about all clauses in משנה)  
 ii Note: we don't require מום if he designated טמאה or בע"מ, as they are unfit; but נקבה לאשם requires מום  
 1 Note: this implies that our משנה is contra ר"ש, who holds that מפרש נקבה לאשם is sold without a מום