

33.1.8

10a (משנה ג) → 11a (וולד מיהא קדיש לגופיה)

I ג משנה: limitations on range of תמורה

a cannot: be עוברין ממיר <-> אברין

b nor: שלמים <-> עוברין/אברין

i dissent: מירר – ר' יוסי complete animals with אברים

ii argument: in re: מוקדשין, if he says “רגלה של זו עולה” – it spreads and entire animal is עולה

1 similarly: if he says “this leg is in lieu of that animal” – the entire animal becomes תמורה for the index animal

II עוברין vs. בר פדא regarding קדושה being effective on ר' יוחנן

a valid – (בר פדא – invalid; discussed below) ד' יוחנן

i consistency: ר' יוחנן rules that if someone was מקדיש a חטאת and it became pregnant, he may use either for his קרבן

ii justification: if we only had his general ruling, we would reason that it was קדוש because he was מקדיש it directly

1 but: in case of חטאת, קדושה wouldn't “spread” from mother to וולד

2 and: if we only had חטאת-ruling, we wouldn't know to extend it to a case where he was מקדיש only the וולד

(a) reasoning: the וולד isn't yet “out” and available to הקדש, unlike the חטאת case where it was האם קדוש

iii (alternate version: ר' יוחנן's ruling teaches that עובר is not אמו ירך and if he is מקדיש independent of עובר, that works

1 justification: in case of חטאת, קדושה comes on עובר via the mother

(a) and: in case of independent עובר, because he singled it out

iv challenge (ר' ירמיה לר' זירא): there is a “loophole” to avoid בכורה

1 if: he has a מבכרת, he can be מקדיש the עובר as an עולה (before birth) – and if it is a male, it is an עולה

2 conclusion: מקדיש עובר works (challenge to בר פדא)

3 defense: refers to דמים קדושת

(a) challenge: is קדושת בכורה strong enough to trump קדושת דמים?

(b) answer: indeed, per ב: בכורות – מום קבוע before the הקדש and were redeemed ומתנות בכורה

(i) inference: only after redemption → beforehand – exempt (→ קדושת דמים trumps בכורה)

v challenge (ר' ירמיה): תוספתא תמורה ג:א – if an owner of מוקדשת that is pregnant that which is in her womb is עולה

1 then: the host mother may be sheared, but not worked (weakens עובר) → it is הקדש (challenge to בר פדא)

2 defense: refers to דמים קדושת

(a) challenge: is קדושת דמים strong enough to prohibit עבודה?

(b) Answer: indeed, per ב: בכורות – מום came first (=קדושת דמים) – only may be worked after פדיון

vi Challenge (ר' ירמיה): from our משנה → עוברין have קדושה

1 Answer: our משנה is referring to וולדות קדשים

2 Challenge: implied from משנה that once born they can generate תמורה – but we hold תמורה – אין הוולד עושה תמורה

(a) Defense: follows יהודה ר', who holds that תמורה ר' יהודה

(i) Implication: author of our משנה holds that אברין can be מוקדש

(ii) But: יהודה ר' holds that if one is מקדיש a limb, it doesn't spread (see below)

1. Defense: could be a vital organ (where יהודה ר' agrees that it “spreads”)

(b) Challenge: ר' ברייתא rules that we may be מקדיש limbs and עוברין – but cannot make תמורה

(i) Answer: context is וולדות קדשים

(ii) Challenge: shouldn't state מקדישין – they're already sanctified

1. Answer: means – we can be מקדיש 1 limb and then be ממיר from it (as full animal) – but not from limb

2. And: we can not make תמורה from וולדות קדשים until they are born, per יהודה ר' יהודה (וולד עושה תמורה)

a. Challenge: יהודה ר' doesn't allow for קידוש אברים

b. Answer: context is a limb that (removal of which) would render it a טריפה

b Suggestion: dispute בר פדא :: contradictory ברייתות re status of viable foetus found inside חטאת (if like חטאת or חולין)

i Proposal: dispute is whether קדושה applies to עוברין

ii Rejection: dispute is whether וולדות קדשים become holy immediately or at birth (if at birth – no קדושה here)

1 Or: no disagreement; 1 ברייתא is case of pregnant before הקדש; other is where it became pregnant afterwards

III (ר'א) ברייתא (תמורה – generate (שמואל) מקדישין nor (תמורה –become שמואל) קדושים aren't טומטום, אנדרויגוס, כלאים, טריפה ויוצא דופן: (ר'א) ברייתא

a only possible if it was הקדש then became טריפה and then gave birth via C-section (יוצא דופן) ד"מ

b Defense: ר' יוחנן considers them separate → במקעי בע"מ; dispute – קדוש – תם במקעי תמימה ב"פ

c (alternate version: ר"מ noted that these can only be found קדשים, per יהודה ר' יהודה) → other קדשים

i Explanation: per above, dispute only about בע"מ